

# CHAPTER 36 EMPLOYEES' RETIREMENT SYSTEM

## TABLE

36-01	Purpose
36-02	Definitions
36-03	Membership
36-04	Creditable Service
36-05	Benefits
36-055	Election of Survivorship Benefits
36-06	Coordinated Plan
36-07	Re-examination of Disability Beneficiaries
36-08	Method of Financing
36-09	Management of Funds
36-10	Exemption from Taxation, Execution and Assignment
36-11	Protection Against Fraud and Elimination of Errors
36-12	Limitations on Payment of Benefit
36-13	Contractual Benefits; Miscellaneous Provisions
36-14	Home Rule
36-15	Administration

**36-01. Purpose.** The retirement system provided for herein shall be maintained by the city and by such agencies as are included specifically within the provisions of this chapter to assure and guarantee the payment of retirement and other benefits to persons covered by this chapter and to their beneficiaries and to such other persons who are authorized by the provisions of this chapter to receive benefits. If a person is a member of either the firemen's annuity and benefit fund or the policemen's annuity and benefit fund then he shall be ineligible to participate as a member in this system. The purpose of this chapter shall further be to safeguard and protect the funds of such retirement system and to invest the same in a prudent and vigilant manner. (*S. 36-01 rc. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

**36-02. Definitions.** Except where the context plainly requires different meaning, the following words and phrases shall have the following meanings:

**1. ACCUMULATED CONTRIBUTIONS** shall mean the sum of the contributions, in the member's account, as provided for in s. 36-08-7-i, together with regular interest, credited at the end of each year on the balance in the account at the beginning of each year. For members who retire or die, interest for the current year shall be calculated to the first day of the month preceding retirement or death. (*Sub. 1 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

**2. ACT** refers to the employees' retirement act as created by the provisions of ch. 396, laws of [Wisconsin] 1937, and as amended thereafter, including amendments enacted by the common council under its home rule powers.

**3. ACTUARIAL EQUIVALENT** shall mean a benefit of equivalent value as determined on the basis of the tables most recently adopted by the board. (*Sub. 3 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

**4. ANNUITY** shall mean the annual payments made to a beneficiary who elects an annuity in lieu of a lump sum ordinary death benefit. All annuities shall be paid in equal monthly installments. When the annuity begins after the 1st day of the month or ends before the last day of the month, the pro rata amounts shall be paid for that month. (*Sub. 4 am. Ch. Ord. 348, File #68-2287, Jan. 21, 1969.*)

**5. BENEFICIARY** shall mean any person in receipt of a retirement allowance, or other benefit, as provided by this act. (*S. 1, Ch. 396, L. 1937.*)

**6. BOARD** shall mean the annuity and pension board provided for in section 7 of this act [s. 36-15] to administer the retirement system. (*S. 1, Ch. 396, L. 1937.*)

**7. CITY** shall mean the city in which the retirement system as herein provided is established. (*S. 1, Ch. 396, L. 1937.*)

**8. CITY AGENCY** shall mean any board, commission, division, department, office or agency of the city government, including its school board under ch. 119, Wis. Stats., an exposition center under ch. 229, Wis. Stats., a local exposition district board under ch. 229, Wis. Stats., annuity and pension board under s. 62.63, Wis. Stats., a metropolitan sewerage

### 36-02-8.5 Employees' Retirement System

district under ch. 66, Wis. Stats., a vocational, technical and adult education district under ch. 38, Wis. Stats., a housing authority under ch. 66, Wis. Stats., and a redevelopment authority under ch. 66, Wis. Stats., having jurisdiction within such city, by which an employee of the city or city agency is paid. (*Sub. 8 rc. File #900632, Sept. 25, 1990; eff. Dec. 11, 1990. Sub. 8 am. File #950563, July 28, 1995; eff. Oct. 16, 1995.*)

**8.5.** COMBINED FUND shall mean the fund created under s. 36-08-9. (*Sub. 8.5 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

**9.** CONSENT AGREEMENT shall mean the agreement entered into between the employee and the employer providing for participation under the coordinated plan. (*Sub. 9 am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

**10.** COORDINATED PLAN shall mean those provisions of this chapter providing benefits in conjunction with those benefits provided under the social security act. (*Sub. 10 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

**11.** CREDITABLE SERVICE shall mean prior service plus membership service for which credit is allowable under section 4 of this act [s. 36-04]. (*S. 1, Ch. 396, L. 1937.*)

**12.** EARNABLE COMPENSATION shall mean: a. the annual regular base salary that would be payable to a member if he or she worked the full normal working time for his or her position, provided, however, that where service is credited during periods of absences as provided in s. 36-04-1-b, the employee shall be considered to have an earnable compensation during such periods of absence equivalent to his or her earnable compensation as of his or her last month of employment prior to the beginning of such absences. In cases where compensation includes maintenance, the board shall fix the value of that part of the compensation not payable in money. Policemen, excluding sergeant of police, detective lieutenant and ranks above same, retiring on a service retirement allowance on or after January 1, 1983, shall have longevity in rank pay, if any, payable at the close of the calendar year immediately preceding their retirement included as earnable compensation,

except that policemen excluding sergeant of police, detective lieutenant and ranks above same, retiring on a service retirement allowance on or after January 1, 1998, who would have accrued 20 years of creditable service if they had remained in active service to the end of the calendar year in which they retire, shall have longevity in rank pay, if any, that would have been payable at the close of the calendar year of their retirement had they not retired included as earnable compensation, policemen of the rank of police sergeant and above (excluding the rank of commander and above) retiring on a service retirement allowance prior to January 1, 2000 shall have variable shift assignment pay, if any, to a maximum of \$1,410 per calendar year for police sergeant, administrative police sergeant, police sergeant (garage) and police identification supervisor, and \$1,400 per calendar year for all others payable for the calendar year immediately preceding the calendar year in which they retire included as earnable compensation except that such other policemen who retire during calendar year 1985 shall have variable shift assignment pay, if any, payable for calendar year 1985 included as earnable compensation. Policemen of the rank of police sergeant and above (excluding policemen of the rank of police commander and above) retiring on a service retirement on or after January 1, 2000 shall have variable shift assignment pay, if any, to a maximum of \$1,060 per calendar year for the ranks of police sergeant, police sergeant (garage) and police identification supervisor and \$1,050 per calendar year for all others payable for the calendar year immediately preceding the calendar year in which they retire included as earnable compensation. Policemen of the rank of police sergeant or administrative police sergeant retiring on a service retirement on or after January 1, 2003 shall have variable shift assignment pay, if any, to maximum of \$1,360 per calendar year included in the calculation of final average salary for computing an employee's normal service retirement allowance. Policemen of the rank of police commander or above retiring on a service retirement allowance prior to January 1, 2001 shall have variable shift assignment pay, if any, to a maximum of \$1,400 per calendar year for the year immediately prior to the calendar year in which

they retire included as earnable compensation and policemen of the rank of police commander or above retiring on a service retirement on or after January 1, 2001 shall have variable shift assignment pay, if any, to a maximum of \$1,500 per calendar year for the year immediately prior to the calendar year in which they retire included as earnable compensation. Firemen retiring on a service retirement allowance on or after January 1, 1992, shall have up to a maximum of \$550 in special emergency medical technician pay, if any, payable at the close of the calendar year immediately preceding their retirement included as earnable compensation. Firemen retiring on a service retirement allowance on or after January 1, 2000, shall have longevity pay, payable at the close of the calendar year immediately preceding their retirement included as earnable compensation. Firemen represented by Local 215 IAFF and retiring on a service retirement allowance in 2004 shall have training standards pay, if any, up to a maximum of \$400, that would have been payable at the close of calendar year 2004 had they not retired, included as earnable compensation. Firemen represented by Local 215 IAFF and retiring on a service retirement allowance on or after January 1, 2005 shall have training standards pay, if any, up to a maximum of \$400 received for the calendar year immediately preceding the calendar year of their retirement, included as earnable compensation. Firemen represented by Local 215 IAFF and retiring on a service retirement allowance on or after January 1, 2006 shall have EMT II premium pay, if any, up to a maximum of \$1000 received for the calendar year immediately preceding the calendar year of their retirement, included as earnable compensation. Members who are employees of the school board represented by Local 950, Operating Engineers International Union, who retire on or after March 4, 1990, shall have site differential pay if received on or after March 4, 1990, included as earnable compensation. Earnable compensation for any one year of creditable service shall not exceed \$150,000. If for any calendar year after 1994 the excess of \$150,000 increased by the cost of living adjustment prescribed by section 415(d), Internal Revenue Code, on a base period of the last quarter of calendar year 1993 exceeds \$150,000 by an amount in excess of \$10,000, the maximum for any subsequent

calendar year shall be increased by the amount of the excess rounded to the next lowest multiple of \$10,000.

b. In computing the service retirement allowance payable to a policeman retiring on a service retirement allowance under s. 36-05-1-e, a policeman retiring during calendar year 1995 shall have the certification pay benefit which would have been payable at the close of calendar year 1995, had such policeman not retired included in earnable compensation. In computing the retirement allowance payable to a policeman retiring on a service retirement allowance under s. 36-05-1-e in calendar years 1996 through 2003, the certification pay benefit payable to such policemen at the close of the calendar year immediately prior to the calendar year of retirement shall be included in earnable compensation. In computing the retirement allowance payable to a policeman who is entitled to certification pay at the time of retirement, other than a sergeant, lieutenant and ranks above, retiring on a service retirement allowance under s. 36-05-1-e in calendar year 2004, such policeman shall have the sum of \$1,000 of certification pay included as earnable compensation. In computing the retirement allowance payable to a policeman who is entitled to certification pay at the time of retirement, other than a sergeant, lieutenant and ranks above, retiring on a service retirement allowance under s. 36-05-1-e on or after January 1, 2005, certification pay in an amount not to exceed the first \$1,000 of certification pay payable to such policeman at the close of the calendar year immediately prior to the calendar year of retirement shall be included in earnable compensation. A policeman who has served in the position of police liaison officer, who retires on a service retirement allowance after January 1, 2004 shall have the \$150 biweekly payments payable in and after pay period 1, 2004, which are payable in lieu of certain other payments and allowances received by policemen, included as earnable compensation in an amount not to exceed a maximum of 12 months of such biweekly payments. This par. shall not apply to policemen who receive a retirement allowance under s. 36-05-6-b-2 and 3, 6-c, 6-d or 6-e.

*(Sub. 12 am. Ch. Ord. 556, File #85-769, Dec. 4, 1985; eff. March 15, 1986. Sub. 12 am. File #890633, July 25, 1989; eff. Oct. 14, 1989. Sub. 12 am. File #902072, April 23,*

### 36-02-13 Employees' Retirement System

1991; eff. July 9, 1991. Sub. 12 am. File #91154, Oct. 15, 1991; eff. Dec. 31, 1991. Sub. 12 am. (Note) File #901684, July 28, 1992; eff. Sept. 30, 1992. Sub. 12 am. File #931464, Jan. 25, 1994; eff. April 12, 1994. Sub. 12 am. File #951902, June 4, 1996; eff. Aug. 20, 1996. Sub. 12-a am. File #990892, Oct. 19, 1999; eff. Jan. 4, 2000. Sub. 12-a am. File #991213, Nov. 29, 1999; eff. Feb. 15, 2000. Sub. 12-a am. File #991904, May 19, 2000; eff. Aug. 8, 2000. Sub. 12-a am. File #000932, Nov. 28, 2000; eff. Feb. 13, 2001. Sub. 12-a am. File #010670, Sept. 25, 2001; eff. Dec. 10, 2001. Sub. 12-a am. File #040265, July 7, 2004; eff. Sept. 13, 2004. Sub. 12-b am. File #041649, April 12, 2005; eff. June 28, 2005. Sub. 12-a am. File #050475, Sept. 27, 2005; eff. Dec. 13, 2005.)

**13.** EMPLOYEE shall mean any person whose name appears on a regular payroll of the city or city agency, except persons who are contributing under the teachers' retirement act or a participating employee under the provisions of the Wisconsin retirement system; or who are elected to office by vote of the people unless such elected person shall request the board in writing to be included within the provisions of this fund; or who are school crossing guards. In the event of a question arising as to the right of any person in the service of the city to be classified as an employee under this act, the decision of the board shall be final. (Sub. 13 am. File #950985, Nov. 6, 1995; eff. Jan. 22, 1996.)

**14.** EMPLOYEES' RETIREMENT SYSTEM. (See Retirement System.)

**15.** FINAL AVERAGE SALARY shall mean the average annual earnable compensation of a member computed on the 3 years of creditable service preceding his date of death or retirement during which his earnable compensation was the highest or if he should have less than 3 years of creditable service, then his average annual earnable compensation during his creditable service; except that for policemen whose date of death or retirement is on or after October 5, 1973, and firemen whose date of death or retirement is on or after July 28, 1974, "final average salary" shall mean the average annual earnable compensation of a member computed on the year of creditable service preceding his date of death or retirement during which his earnable

compensation was the highest. (Sub. 15 am. Ch. Ord. 526, File #83-986, Sept. 27, 1983.)

**16.** FIREMAN shall mean a person first employed on or after July 30, 1947, in the fire department whose duty it is to extinguish fires and to protect property and life therefrom, including the chief and all other firemen officers. Commencing in 1975, this term includes a fireman on detached service under the contract administration provisions of a labor contract. Commencing February 14, 1989, this term includes a person employed in the fire department as a fire alarm dispatcher who was promoted from a position whose exclusive duty it is to provide emergency medical services. Commencing June 1, 1989, this term includes a person employed in the fire department whose exclusive duty it is to provide emergency medical services. (Sub. 16 am. Ch. Ord. 561, File #86-821, Sept. 23, 1986; eff. Dec. 8, 1986. Sub. 16 am. File #890598, July 25, 1989; eff. Oct. 14, 1989.)

**17.** GENERAL CITY EMPLOYEE shall mean: An employee of the city or a city agency who is not a policeman or fireman. For purposes of s. 36-05-1-h-5, general city employee shall include a person meeting this definition on January 1, 2000, even though the person was no longer employed by the city or city agency on January 19, 2001.

(Sub. 17 rc. File #900631, Sept. 25, 1990; eff. Dec. 11, 1990. Par. c cr. File #941982, Apr. 25, 1995; eff. July 12, 1995. Par. b am. File #950563, July 28, 1995; eff. Oct. 16, 1995. Par. c am. File #950563, July 28, 1995; eff. Oct. 16, 1995. Par. c am. File #950869, October 17, 1995; eff. January 2, 1996. Par. d cr. File #950981, November 6, 1995; eff. January 9, 1996. Par. e cr. File #951195, Dec. 19, 1995; eff. Mar. 13, 1996. Par. a am. File #951504, Feb. 13, 1996; eff. April 30, 1996. Par. b am. File #951504, Feb. 13, 1996; eff. April 30, 1996. Par. c am. File #951504, Feb. 13, 1996; eff. April 30, 1996. Par. d am. File #951488, Feb. 13, 1996; eff. April 30, 1996. Par. d am. File #951904, May 14, 1996; eff. July 31, 1996. Sub. 17 am. File #971131, Dec. 16, 1997; eff. March 9, 1998. Par. c am. File #980238, June 16, 1998; eff. Sept. 1, 1998. Sub. 17 am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Sub. 17 am. File #011501, March 5, 2002; eff. May 21, 2002.)

**18.** MASCULINE PRONOUN shall include the feminine. (am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)

**19.** MEDICAL COUNCIL shall mean the council of physicians provided for in s. 36-15-12. (*Ch. 396, L. 1937.*)

**20.** MEDICAL PANEL as it relates to policemen and firemen shall mean a panel of physicians consisting of one member to be selected by designation of the city; one member to be selected by the certified bargaining agent for the affected policeman or fireman; and the 3rd member to be selected by the other 2 members. In the case of a policeman represented by the Milwaukee Police Association who becomes a member of the retirement system after June 28, 2005, or a fireman represented by Local 215, IAFF, who becomes a member of the retirement system after December 13, 2005 and who applies for, or is granted, a duty disability retirement allowance based on a mental injury, "medical panel" shall mean the medical council. In the case of a policeman or fireman who is not represented by a certified bargaining agent, "medical panel" shall mean the medical council. All decisions of the medical panel shall be made by a majority vote. (*Sub. 20 am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Sub. 20 am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Sub. 20 am. File #001664, April 10, 2001; eff. June 27, 2001. Sub. 20 am. File #041649, April 12, 2005; eff. June 28, 2005. Sub. 20 am. File #050475, Sept. 27, 2005; eff. Dec. 13, 2005.*)

**21.** MEMBER shall mean any person included in the membership of the retirement system as provided in section 3 of this act [s. 36-03]. (*S. 1, Ch. 396, L. 1937.*)

**22.** MEMBERSHIP SERVICE shall mean service as an employee since last becoming a member of the retirement system and on account of which contributions are made by the city or city agency. (*am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

**23.** PARAMEDIC shall mean a person other than a fireman employed in the fire department and classified as a paramedic or paramedic officer. (*am. Ch. Ord. 530, File #82-2109-b, Jan. 24, 1984.*)

**24.** POLICEMAN for the purposes of this act shall mean a person first employed on or after July 30, 1947, in the police department whose duty it is to preserve peace and good order of the city, having the power of arrest without warrant, including the chief and all other policemen officers and police aides.

Commencing in 1969, this term includes a policeman on detached service under the contract administration provisions of a labor contract. (*Sub. 24 am. Ch. Ord. 561, File #86-821, Sept. 23, 1986; eff. Dec. 8, 1986.*)

**25.** PRIOR SERVICE shall mean the service of a member as an employee rendered prior to January 1, 1938, either in the service of the city or city agency, certified on a prior service certificate. In the event, however, that a person ineligible for membership in the retirement system is made eligible by amendments to this act prior service shall be defined to mean all service of a member rendered prior to the effective date of the amendment which made him eligible for such membership. (*am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

**26.** REGULAR INTEREST shall mean interest at such rate as may be set from time to time by the board in accordance with section 9 of this act [s. 36-09]. (*S. 1, Ch. 396, L. 1937.*)

**27.** RETIREMENT ALLOWANCE shall mean the annual payments for life, or any optional benefit payable in lieu thereof. All allowances shall be paid in equal monthly installments. When the allowance begins after the first day of the month or ends before the last day of the month, the pro rata amount shall be paid for that month. (*am. Ch. Ord. 348, File #68-2287, Jan. 21, 1969.*)

**28.** RETIREMENT SYSTEM shall mean the employees' retirement system of the city of Milwaukee.

**29.** SINGULAR. Unless the context clearly indicates otherwise, the singular shall include the plural. (*cr. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. Sub. 29 cr. File #940667, July 29, 1994; eff. Oct. 17, 1994. Sub. 29 rp. File #950869, October 17, 1995; eff. January 2, 1996. Sub. 30 rn. to 29, File #950869, October 17, 1995; eff. January 2, 1996.*)

**30.** SOCIAL SECURITY ACT shall mean Title II of the old-age survivors, disability and health insurance benefits act. (*am. Ch. Ord. 332, File #67-355-a, July 25, 1967. Sub. 31 rn. to 30 File #950869, October 17, 1995; eff. January 2, 1996.*)

**31.** SOCIAL SECURITY BENEFIT shall mean the unreduced old-age insurance benefit provided under the social security act to which the member is entitled or would be entitled upon proper application or the reduced social security benefit to which the member is entitled

### 36-03 Employees' Retirement System

if the member elects an advance against such reduced old-age insurance benefit. (*Sub. 32 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. Sub. 32 m. to 31 File #950869, October 17, 1995; eff. January 2, 1996. Sub. 31 rc. File #041179, Feb. 1, 2005; eff. April 19, 2005.*)

**36-03. Membership.** 1. **ELIGIBILITY.** The following shall be eligible to membership in the system:

a. Any employee who is entitled to and who elected membership at the time of the creation of the retirement system, or (*Par. a am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

b. Any person who becomes an employee after January 1, 1938, and who is eligible under the provisions of this act and who shall satisfy the following conditions:

b-1. Who is a full time employee; or

b-2. Who is a part-time employee who is eligible for membership under rules and regulations adopted by the board; or

b-3. Elected officials who have evidenced their intention to join the system.

[NOTE: Notwithstanding the provisions of subd. 1, any employee of the city or a city agency as defined in s. 36-02, who became eligible for membership in the employees' retirement system as a result of part-time employment in calendar years prior to 1988, but was not enrolled as a member of the employees' retirement system during such years may file a written election not to become a member of the employees' retirement system within 60 days after February 8, 1990. Such election shall be on a form approved by the annuity and pension board and shall constitute a waiver of all present and prospective benefits which would otherwise inure to the employee by virtue of his or her membership in the employees' retirement system. If such employee becomes a member by virtue of service from and after January 1, 1988, such employee shall not be given prior service credit for service as an employee prior to January 1, 1988. (*File #881377, Nov. 17, 1989; eff. Feb. 8, 1990.*)]

2. **WAIVER OF MEMBERSHIP.** Any person who filed with the board a written election not to become a member which shall constitute a waiver of all present and prospective benefits which would otherwise inure to him by his participation in the system, may later become a member provided he

passes such medical examination as the board may require. If such employee becomes a member within one year after the effective date of establishment of the retirement system, he shall be eligible for prior service credit, but if he does not become a member within such period, he shall not be eligible for prior service credit.

3. **DENIAL OF MEMBERSHIP.** The board may, in its discretion, admit to membership any employee or class of employees whose compensation is only partly paid by the city or who are serving on a temporary basis, which the board considers eligible under the provisions of this act.

4. **REPORT OF CITY OFFICIALS.** It shall be the duty of the head of each department or agency of the city government employing persons who are members or are entitled to become members to submit to the board such statements as the board shall require, of the name, title, compensation, duties, date of birth and length of service of each such person employed by such department or agency.

5. **TERMINATION OF MEMBERSHIP.** Should any member in a period of 10 consecutive years after last becoming a member be absent from service a total of more than 5 years, except as provided in ss. 36-04-1-b and 36-05-6-b-2 and 6 c and d or should he become a beneficiary as a result of his contributions under this act or die, or should he withdraw his accumulated contributions, he shall thereupon cease to be a member. (*Sub. 5 rc. Ch. Ord. 332, File #67-355-a, July 25, 1967. Sub. 5-b rp. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

6. **WHO NOT TO BECOME MEMBERS.** The following shall not be eligible for membership in the retirement system:

a. Persons who are actively employed as a teacher and eligible to contribute to the teacher retirement system.

b. Persons who are school crossing guards.

c. Persons who are elected to office by vote of the people unless such elected person shall request the board in writing to be included within the provisions of this act.

d. Part time employees, except those eligible under rules and regulations promulgated by the board. (*Sub. 6 rc. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

e. No disability beneficiary restored to active service prior to October 17, 1992 after attaining the minimum service retirement age shall become a member of this system. (*Par. a am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. Par. e am. File #941981, April 25, 1995; eff. July 12, 1995.*)

f. Reemployment. f-1. A person who became a member of the retirement system on or after February 19, 1972 and who thereafter retires and receives a retirement allowance for at least 6 months shall not be restored to membership and shall have his or her retirement allowance suspended in the event he or she returns to full time employment with the city or a city agency after reaching the minimum service retirement age. Upon subsequent retirement, such person shall have the retirement allowance temporarily suspended during the period of reemployment restored.

f-2. A person who became a member of the retirement system on or after November 25, 1984 and who thereafter retires and receives a retirement allowance for at least 6 months shall not be restored to membership and shall have his or her retirement allowance suspended in the event he or she returns to employment other than full time employment with the city or city agency after reaching the minimum retirement age. Upon subsequent retirement, such person shall have the retirement allowance temporarily suspended during the period of reemployment restored.

f-3. A person who became a member of the retirement system prior to February 19, 1972 and who thereafter retires and receives a retirement allowance for at least 6 months shall not be restored to membership in the event he or she returns to employment with the city or city agency after reaching the minimum service retirement age except that any such person who returns to full time employment other than temporary employment with the city or a city agency and agrees in writing to waive his or her retirement allowance during the period of reemployment shall have his or her allowance temporarily suspended and his or her membership restored upon subsequent retirement. Any such person who has executed a waiver shall be credited with his or her service as a member subsequent to the last restoration to membership and shall receive a retirement allowance therefore as if he or she was a new member and in addition shall have

the retirement allowance temporarily suspended during a period of reemployment restored.

(*Par. f rc. Ch. Ord. 541, File #84-681-b, Sept. 13, 1984. Par. f rc. File #930123, eff. Aug. 11, 1993.*)

**36-04. Creditable Service. 1. SERVICE CREDITED.** a. The board shall fix and determine by appropriate rules and regulations how much service in any years is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year. In no case shall the board allow credit as service for any period of more than one month's duration during which the employee was absent without pay, except that members employed by the school board for a 10-month school year shall receive credit for one year of service, and except as provided for in par. b. A determination of any service credit by the board is and has been declared to be a contractual and vested right of the member consistent with retirement requirements of this system. (*Par. a am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

b. The board shall allow as creditable service all time during which any employee was absent due to service in the military, air or naval forces or in any defense or compulsory military training programs of the United States of America, and absence during federal hospitalization because of injuries or sickness resulting from such service, provided that such employee was duly excused or granted leave of absence from his services as an employee, and provided further that the period allowed for such service shall begin with the date the employee was excused or granted leave of absence, and shall extend until a date of not more than 90 days after his discharge from military, air or naval service or immediately related federal hospitalization incurred as a result of such service. No absence allowed for such service under the provisions of this paragraph shall be considered as absences under the provisions of s. 36-03-5. Upon the retirement of such member under the provisions of this act, he shall be credited with the periods of his military service by city contribution with the same result as though the member and the city during such military service made the required contributions. (*Par. b am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

c. The board shall allow one year of creditable service for each 3 years of active

### 36-04-1-d Employees' Retirement System

military service prior to enrollment in the retirement system. The creditable service awarded under this par. shall not exceed 3 years. To be eligible the member must be honorably discharged from the armed forces of the United States. To be eligible for inclusion in the calculation, a period of active military service must be a period of not less than 90 consecutive days spent in the active service of the armed forces of the United States and meet the requirements of 10 U.S.C. § 101(d)(1). If a member has accumulated less than 3 years of active military service, the member shall be allowed additional months of service credit on a pro rata basis calculated as the product of the full months of active military service under this par. multiplied by a fraction, the numerator of which is one and the denominator of which is 3. The additional service credit earned under this par. shall be taken into account for purposes of determining the amount of the service retirement allowance, but shall not be taken into account for any other purpose including, but not limited to determining eligibility for a service retirement allowance under s. 36-05-1-d or f, a deferred retirement allowance under s. 36-05-6-b-2 or 6-d-2, an early retirement allowance under s. 36-05-6-b-3 or 6-c, or eligibility for additional imputed service credit under sub. 4.

*(Par. c cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. c am. File #001306, Jan. 16, 2001; eff. April 3, 2001. Par. c am. File #001306, Jan. 16, 2001; eff. April 3, 2001. Par. c am. File #021584, March 25, 2003; eff. June 10, 2003. Par. c am. File #021798, April 15, 2003; eff. June 24, 2003. Par. c am. File #040265, July 7, 2004; eff. Sept. 13, 2004. Par. c am. File #040886, Nov. 3, 2004; eff. Jan. 10, 2005. Par. c. rc. File #041075, Dec. 21, 2004; eff. March 14, 2005. Par. c rc. File #041438, March 16, 2005, eff. May 31, 2005. Par. c rc. File #041775, May 3, 2005; eff. July 19, 2005.)*

**NOTE:** The foregoing amendment to s. 36-04-1-c shall apply only to policemen represented by the MPA and firemen represented by Local 215, IAFF, who participate in the combined fund and who retire on a service retirement allowance between January 1, 1998 and December 31, 2002; policemen represented by the MPSO, and general city employees, who participate in the combined fund and who retire on a service retirement allowance between January 1, 1999 and December 31, 2002; non-represented firemen or policemen who participate in the combined fund and who retire on a service retirement allowance between

January 1, 2000 and December 31, 2002; policemen represented by the MPA, firemen represented by Local 215, IAFF, nonrepresented firemen, and general city management and nonrepresented employees, who participate in the combined fund and who retire on a service retirement allowance on or after January 1, 2003; city of Milwaukee employees who participate in the combined fund and who retire on a service retirement allowance between January 1, 2003 and December 31, 2006, and who are represented by Milwaukee District Council 48, AFSCME, AFL-CIO; the Public Employees' Union 61, LIUNA, AFL-CIO; the Technicians, Engineers and Architects of Milwaukee; the Association of Scientific Personnel; the Staff Nurses Council; Local 195, IBEW, AFL-CIO, Joint Bargaining Unit Local 139, IUOE, AFL-CIO/Milwaukee District Council 48, AFSCME, AFL-CIO; Local 494, IBEW, AFL-CIO, Machine Shop; the Association of Municipal Attorneys; the Association of Law Enforcement Allied Services Personnel; or Local #218, I.U.P.A., AFL-CIO (Police Support Service Personnel); Local 494, IBEW, AFL-CIO, Fire Equipment Dispatchers; city of Milwaukee employees represented by the Milwaukee Building and Construction Trades Council who participate in the combined fund and who retire on a service retirement allowance between August 1, 2003 and July 31, 2007; city of Milwaukee employees represented by Local 75, Journeyman Plumbers and Gasfitters Union, AFL-CIO, and the International Association of Machinists and Aerospace Workers who participate in the combined fund and who retire on a service retirement allowance between January 1, 2003 and December 31, 2006; and city of Milwaukee employees represented by Local 494, IBEW, AFL-CIO, Electrical Group, who participate in the combined fund and who retire on a service retirement allowance between June 1, 2003 and May 30, 2007.

d. Notwithstanding any provision of s. 36-05 and the rules of the board, hours worked as city laborer-seasonal or playground laborer-seasonal (MPS), including time worked in other titles while maintaining city laborer-seasonal status, shall be taken into account as creditable service in determining the amount of a service retirement allowance. The additional creditable service earned under this paragraph shall be granted in accordance with the rules of the board and shall not exceed one year of creditable service. The additional creditable service earned under this paragraph shall not be taken into account for any other purpose including but not limited to determining eligibility for a service retirement allowance under s. 36-05-1-d or f, a deferred retirement allowance under s. 36-05-6-b-2 or 6-d-2, an early retirement allowance under s. 36-05-6-b-3 or 6-c, or eligibility for additional imputed service credit under sub. 4. *(Par d cr. File*



#040886, Nov. 3, 2004; eff. Jan. 10, 2005. *Par. d rc. File #040987, Nov. 23, 2005; eff. Feb. 12, 2005. Par d rc. File #041075, Dec. 21, 2004; eff. March 14, 2005. Par d rc. File #041078, Dec. 21, 2004; eff. March 14, 2005. Par. d rc. File #041081, Dec. 21 2004; eff. March 14, 2005. Par. d rc. File #041309, Feb. 1, 2005; eff. April 19, 2005. Par. d rc. File #041775, May 3, 2005; eff. July 19, 2005.)*

**NOTE:** The foregoing amendment to section 36-04-1-d shall apply only to individuals who participate in the combined fund and who retire on a service retirement allowance on or after January 1, 2005 with at least 5 years of creditable service as a general city employee and who are city of Milwaukee employees represented by Milwaukee District Council 48, AFSCME, AFL-CIO; the Public Employees' Union 61, LIUNA, AFL-CIO; the Technicians, Engineers and Architects of Milwaukee; Local 195, IBEW, AFL-CIO and Joint Bargaining Unit Local 139, IUOE, AFL-CIO/Milwaukee District Council 48, AFSCME, AFL-CIO; Local 494, IBEW, AFL-CIO, Machine Shop; the Milwaukee Building and Construction Trades Council; the International Association of Machinists and Aerospace Workers; Local 494, IBEW, AFL-CIO, Electrical Group; Local 494, IBEW, AFL-CIO, Fire Equipment Dispatchers; and city of Milwaukee management employees, and nonmanagement, nonrepresented employees.

**2. PRIOR SERVICE CERTIFICATES.** The board shall issue prior service certificates certifying to each member the length of service with which he is credited and which was rendered prior to January 1, 1938, or prior to any subsequent amendment to the act which made him eligible for membership. So long as membership continues, a prior service certificate shall be final and conclusive as to prior service credit except a member may request modification within one year of the date of issue. When membership ceases for any cause other than retirement, a prior service certificate shall become void and shall not be renewed upon any return to service as an employee except as provided in ss. 36-05-6-b-4, 6-c and d, and 36-07-3. (*Sub. 2 am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

**3. DUTY DISABILITY RETIREMENT CREDIT.** a. Any member employed as a policeman on or after October 5, 1973, who is thereafter retired from active service upon becoming entitled to a duty disability retirement allowance or who was restored to active service prior to October 5, 1973, following termination of a duty disability retirement allowance, any member employed as a fireman

on or after July 28, 1974, who is thereafter retired from active service upon becoming entitled to a duty disability retirement allowance or who was restored to active service prior to July 28, 1974, following termination of a duty disability retirement allowance, and any member other than a fireman or policeman employed or receiving a duty disability retirement allowance on or after May 15, 1973, shall be allowed toward his or her service retirement a credit for each year or part thereof during which he or she is eligible to receive a duty disability retirement allowance, or in which duty disability retirement allowance is suspended under s. 36-07-3, in computing his or her service retirement on the basis of the formula applicable. Such credit shall only be reflected for the purposes of establishing eligibility for and calculating the amount of the service retirement allowance but not otherwise. The service retirement allowance shall be computed on the basis of the annual regular base salary in effect for the member's position in the year immediately prior to the member's service retirement and the additional amount that would have been includable under s. 36-02-12 in the member's earnable compensation if the member had retired from active service on a service retirement allowance on the date of the member's service retirement. The cost thereof shall be reflected by the actuary in computing the employer's contribution to the fund. (*Par. a am. File #880374, June 7, 1988; eff. Aug. 22, 1988. Par a am. File #001476, Feb. 27, 2001; eff. May 15, 2001. Par. a am. File #011514, March 5, 2002; eff. May 21, 2002.*)

b. Upon retirement of an employee, all creditable service and all other credits provided for in this act shall be reflected in determining his retirement allowance. (*Par. b rc. Ch. Ord. 398, File #73-120, May 2, 1973.*)

**4. IMPUTED SERVICE CREDIT.**

a. A fireman or policeman in active service as of January 1, 2000, who participates in the combined fund and who has attained 20 years of creditable service in the retirement system as a fireman or policeman shall be allowed 1.5 years of additional imputed creditable service toward the computation of his or her service retirement allowance if he or she applies for retirement as a fireman. A fireman or policeman in active service as of January 1, 2000, who participates in the combined fund and who applies for a service

### 36-05 Employees' Retirement System

retirement allowance as a fireman without first having attained 20 years of creditable service as a fireman or policeman shall be allowed additional imputed creditable service under this sub. on a pro rata basis calculated as the product of 1.5 multiplied by a fraction, the numerator of which is the full years of the member's creditable service as a fireman or policeman (excluding imputed creditable service credited under sub. 1-c) to the date of retirement and the denominator of which is 20. A fireman or policeman in active service as of January 1, 2000 who participates in the combined fund who has attained 25 years of creditable service in the retirement system as a policeman or fireman or the minimum service retirement age under s. 36-05-1-b, shall be allowed 1.5 years of additional imputed creditable service toward the computation of his or her service retirement allowance if he or she applies for retirement as a policeman. The imputed service credited under this par. shall not be included in determining eligibility for a retirement allowance under s. 36-05-1-f or in calculating the maximum service retirement allowance under s. 36-05-1-e. This par. does not apply to a retirement allowance authorized by s. 36-05-6-b-2, 6-d-2, 6-b-3 or 6-c. The imputed service credit under this par. shall be included in the deceased member's allowance when calculating the spouse survivor allowance under s. 36-05-7-b-4-a.

b. Firemen and policemen survivorship fund dissolution bonus. A policeman in active service as of January 1, 2000 who participates in the combined fund shall be allowed 2 years of additional service credit toward the computation of his or her service retirement allowance if he or she applies for a service retirement allowance after having attained 25 years of creditable service in the retirement system as a policeman or fireman or the minimum service retirement age under s. 36-05-1-b. A policeman retired on a disability retirement allowance as of January 1, 2000 who participates in the combined fund shall be allowed 2 years of additional service credit toward the computation of his or her service retirement allowance upon conversion from a duty disability allowance to a service retirement allowance if he or she is an active member in good standing in the fireman or policeman's survivorship fund as of January 1, 2000. The imputed service credit under this

par. shall not be included in determining the eligibility for a retirement allowance under s. 36-05-1-f or in calculating the maximum service retirement allowance under s. 36-05-1-e. This par. shall not apply to a retirement allowance authorized by s. 36-05-6-b-2, 6-b-3, 6-c or 6-d-2. (36-04-4 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. 36-04-4 am. File #000484, July 11, 2000; eff. Jan. 19, 2001. 36-04-4-a am. File #000792, Oct. 10, 2000; eff. Jan. 19, 2001.)

**36-05. Benefits. 1. SERVICE RETIREMENT ALLOWANCE.** a. To File Request. Any member in active service may retire on or after reaching the minimum service retirement age, upon filing with the board a request for retirement and a retirement allowance on a form provided by the board for that purpose. The request shall be filed not less than 30 days nor more than 90 days prior to the effective date of retirement. A member whose allowance would be less than \$25 per month shall be paid a lump sum amount which is the actuarial equivalent of the allowance and the member shall not be eligible to receive any other benefits under this system. The board may adjust the minimum allowance under this paragraph, 1-a, sub. 6-b-2, sub.6-b-3, sub. 6-d-2, and sub. 10-a-3, provided however that the minimum monthly allowance of \$25 may not be increased by more than the cost of living increase as measured by the increase in the Consumer Price Index-All Urban Consumers-CPI-U U.S. Cities Average as reported by the U.S. Department of Labor Bureau of Labor Statistic between January 1, 1973 and the effective date of the adjustment. A member whose allowance is less than the minimum allowance shall be paid a lump sum amount that is the actuarial equivalent of the allowance in lieu of receiving any other benefits under this system. In the event a policeman who has elected an option under sub. 7 dies between the date of his or her application and the effective date of his or her retirement, the policeman shall be treated as though he or she died immediately after his or her retirement became effective. (Par. a am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972. Par. a am. File #950521, July 28, 1995; eff. Oct. 3, 1995, Par. a am. File #001665, April 10, 2001; eff. June 27, 2001. Par. a am. File #010197, June 19, 2001; eff. Aug. 29, 2001. Par. a am. File #020598, July 27, 2004; eff. Oct. 12, 2004.)

b. Minimum Age. The minimum service retirement age shall be, in the case of firemen and policemen, age 57, and for all other members, age 60.

d. Retirement Allowance. d-1. A service retirement allowance equal to 2% of the member's final average salary times the total number of years of all creditable service, and including all other creditable and prior service credits at the percentage specified in this act and applied to the member's final average salary in the employees' retirement system as defined in this act. The member shall be guaranteed that if the total benefit in the form of a monthly retirement allowance, either under a maximum allowance or under any optional plan elected by such member pursuant to sub. 7, does not equal the amount of the member's contributions as provided for in s. 36-08-7, together with interest to the date of retirement, then the balance of the member's contributions with interest shall be payable in a lump sum amount to a designated beneficiary or to an estate entitled thereto. The guarantee provided or shall be applicable also to a retirement which was in effect as of January 1, 1971, without adjustment, and shall also be applicable to all retirements which occur after January 1, 1971, and to retirements under subs. 1-e, f and g, 2, 3 and 6. The service retirement allowance for members who retire between January 1, 1989 and December 31, 1994, shall not exceed the lesser of an amount established by the U.S. secretary of the treasury or 100% of final average salary under sec. 415 of the Internal Revenue Code. The service retirement allowance for members who retire on or after January 1, 1995 shall not exceed an amount established by the secretary of the treasury under sec. 415 of the Internal Revenue Code. (*Subd. 1 am. File #890633, July 25, 1989; eff. Oct. 14, 1989. Subd. 1 am. File #961325, Dec. 17, 1996; eff. Mar. 10, 1997.*)

d-2. A member shall receive a pro rata retirement allowance based upon the above formula for service for any period less than a full year. (*S. 2, Ch. Ord. 344, Nov. 18, 1968.*)

d-3. General City, Age 55. Effective January 1, 1996, a general city employee who has attained the age of 55 years and completed 30 years of creditable service in the employees' retirement system shall be eligible for a normal service retirement allowance as computed

under par. d. (*Subd. 3 cr. File #941981, April 25, 1995, eff. July 12, 1995.*)

e. Firemen or Policemen, Creditable Service. The annual service retirement allowance of firemen and policemen shall consist of: (*Par. e-0 am. Ch. Ord. 511, File #80-597-b, Oct. 27, 1981.*)

e-1. A service retirement allowance equal to 2.25% of the member's final average salary times the number of years of creditable service up to and including 25 years of service and 2.4% of the member's final average salary times the number of years of creditable service thereafter; such credit shall be applicable only to service as a fireman or policeman. Service of policemen in the years 1979 through 1994 and service of firemen commencing March 1, 1983, and thereafter through December 31, 1994, shall be credited at the rate of 2.5% of the member's final average salary per year for each such year of creditable service or part thereof. Firemen and policemen in active service on or after January 1, 1995 shall be credited at the rate of 2.5% of the member's final average salary for each year of creditable service or part thereof as a fireman or policeman. The service retirement allowance of firemen who retire on or after March 1, 1985, and policemen who retire on or after November 3, 1988, shall not exceed 100% of the member's final average salary. The service retirement allowance of policemen who retire on or after July 1, 1989, and firemen who retire on or after March 1, 1989, shall not exceed 90% of the member's final average salary provided, however, that the application of this limitation shall not operate to diminish that portion of a policeman's retirement allowance attributable to creditable service earned through July 1, 1989 or a fireman's retirement allowance attributable to creditable service earned through March 1, 1989. (*Subd. 1 am. Ch. Ord. 552, File #85-118-a, July 16, 1985, eff. Sept. 30, 1985. Subd. 1 am. Ch. Ord. 554, File #85-845, Oct. 1, 1985, eff. Dec. 15, 1985. Subd. 1 am. File #872401, May 17, 1988, eff. Aug. 2, 1988. Subd. 1 rc. File #872396, Sept. 20, 1988, eff. Dec. 5, 1988. Subd. 1 am. File #881667, Dec. 20, 1988, eff. March 13, 1989. Subd. 1 am. File #890633, July 25, 1988, eff. Oct. 14, 1989. Subd. 1 am. File #890982, Sept. 19, 1989, eff. Dec. 6, 1989. Subd. 1 am. File #891650, Jan. 16, 1990, eff. Apr. 4, 1990. Subd. 1 am. File #892369, Apr. 9, 1990, eff. June 26, 1990. Subd. 1 am.*)

### **36-05-1-e-1 Employees' Retirement System**

*File #891154, Oct. 15, 1991, eff. Dec. 31, 1991. Subd. 1 am. File #911820, Feb. 11, 1992; eff. Apr. 13, 1992. Subd. 1 am. File #901684, July 28, 1992, eff. Sept. 30, 1992. Subd. 1 am. File #940423, July 15, 1994; eff. Sept. 28, 1994. Subd. 1 am. File #950521, July 28, 1995; eff. Oct. 3, 1995. Subd. 1 am. File #950597, Sept. 27, 1995; eff. Dec. 13, 1995.)*

e-2. A fireman or policeman shall receive a pro rata retirement allowance based upon the above formula for service for any period less than a full year. (*Subd. 2 rc. Ch. Ord. 344, File #68-726, Nov. 18, 1968.*)

f. Firemen or Policemen. A fireman or policeman who has attained the age of 52 years and has completed 25 years of creditable service in the employees' retirement system in that capacity will be eligible for a service retirement allowance as computed under par. e. A fireman represented by Local 215, IAFF, in active service on or after January 1, 1998, or a fireman who is not represented by Local 215, IAFF, in active service on or after January 1, 2000 shall be eligible for a service retirement allowance as calculated under par. e. if he or she participates in the combined fund and attains the age of 49 years and completes 22 years of creditable service as a fireman or policeman. A policeman represented by the MPA, in active service on or after January 1, 1998, a policeman represented by MPSO, in active service on or after January 1, 1999, or a policeman who is not represented by the MPA or MPSO in active service on or after January 1, 2000 shall be eligible for a service retirement allowance as calculated under par. e if he or she participates in the combined fund and completes 25 years of creditable service as a policeman or fireman. A fireman, including a person who was a fireman prior to June 1, 1989, shall have all service in a position whose duty it is to provide emergency medical service included in the computation of creditable service for purposes of determining eligibility for a service retirement allowance under this paragraph and for purposes of computing creditable service under subs. 6-e and 7-b-4. (*Par. f am. File #900682, Sept. 25, 1990; eff. Dec. 11, 1990. Par. f am. File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

g. Elected Officials. The annual service retirement allowance for elected officials elected to office by vote of the people, except the mayor, shall equal 2.60% of the member's final average salary times the number of years of creditable service accrued as an elected official for years of service prior to 1996 and 2.50% of the member's final average salary times the number of years of creditable service accrued as an elected official for

years of service on or after January 1, 1996. The annual service retirement for the mayor shall equal 2.60% of the mayor's final average salary times the number of years of creditable service accrued for years of service prior to 1996, and 2.0% of the mayor's final average salary times the number of years of creditable service accrued for years of service on or after January 1, 1996. Service before or after service for elected officials shall be credited at the rate applicable to such service. (*Par. g am. File #920411, July 7, 1992; eff. Sept. 22, 1992. Par. g am. File #931035, Nov. 9, 1993; eff. Jan. 29, 1994. Par. g am. File #950766, October 17, 1995; eff. January 2, 1996. Par. g am. File #951082, Nov. 28, 1995; eff. Feb. 13, 1996.*)

h-1. Escalator. Firemen who retire on a service retirement allowance under subs. 1-b or f or 3-c-3 between March 1, 1990 and December 31, 1992, policemen who retire on a service retirement allowance under subs. 1-b or f or 3-c-3 between January 1, 1990 and December 31, 1992, and firemen or policemen represented by the Milwaukee Police Association, with 25 years of creditable service as a fireman or policeman who separate from service between January 1, 1993 and December 31, 1994 and elect a deferred retirement under sub. 6-e, shall be eligible for a pension escalator in the amount of \$50 per month on the 4th annual anniversary of service retirement, an additional escalator of \$50 per month on the 7th annual anniversary after service retirement and an additional \$50 per month on the 10th annual anniversary after service retirement.

h-3. An escalator under subd. 1 included in a fireman's or policeman's service retirement allowance at the date of death shall be included for purposes of determining a spouse's survivor allowance upon death of such fireman or policeman under Options 2 and 3 and such spouse's survivor allowance under Option 2 shall be escalated in the amount of \$50 per month and under Option 3 in the amount of \$25 per month at such times as such fireman's or policeman's pension would have been escalated under subd. 1 had the fireman or policeman continued to live. If a fireman or policeman elects Option 4 and selects a reduced service retirement allowance payable in equal installments during the

### 36-05-1-h-4 Employees' Retirement System

fireman's or policeman's life with the provision that after the fireman's or policeman's death the surviving spouse shall receive an allowance payable in equal installments during the spouse's life which is a proportionate share of the member's reduced service retirement allowance, the escalator under subd. 1 included in the fireman's or policeman's service retirement allowance at the date of death shall be included for purposes of determining the proportionate share of the spouse's survivor allowance upon death of such fireman or policeman and the spouse's survivor allowance shall be escalated by an amount computed by multiplying \$50 by the spouse's proportionate share at such times as the fireman's or policeman's service retirement allowance would have been escalated under subd. 1 had the fireman or policeman continued to live. If a fireman or policeman elects Option 4 and selects a reduced service retirement allowance with the provision that after the fireman's or policeman's death the surviving spouse shall receive an allowance but does not select a payout option referred to in this subdivision the escalator included in the fireman's or policeman's service retirement allowance at the date of death shall not be included in determining the spouse's survivor allowance upon death of such fireman or policeman but such spouse's survivor allowance shall be escalated \$25 for each escalation the member received or would have been entitled to receive under subd. 1 if the member would have continued to live.

h-4. General city employees who retire on a service retirement allowance under sub. 1-b or 1-d-3, on or after January 1, 1993 (on or after August 16, 1994 for employees represented by the Milwaukee Building and Construction Trades Council, AFL-CIO), and retired general city employees receiving a duty disability retirement allowance, who have attained the minimum service retirement age and convert to service retirement allowance on or after January 1, 1993 (on or after August 16, 1994 for employees represented by the Milwaukee Building and Construction Trades Council, AFL-CIO), shall be eligible for a pension escalator of 2% effective with the installment next following the 8th annual anniversary of service retirement and an additional 2% pension escalator in each

successive year effective on each subsequent anniversary of the first adjustment. Each successive adjustment shall be computed on the service retirement allowance as previously adjusted. General city employees receiving retirement benefits under sub. 6-b-2 and 3, 6-c or 6-d-2 shall not be eligible for a pension escalator under this subdivision. If a member who is eligible for an adjustment under this subd. dies without receiving an adjustment prior to death, a beneficiary who is eligible for a spouse survivor allowance under sub. 7-b-2 shall be eligible for a pension escalator in the amount of 2% effective with the installment in which the member would have received an adjustment had the member lived. If the member has received an adjustment under this subd. prior to death, a beneficiary who is eligible for a spouse survivor allowance under sub. 7-b-2 shall be eligible for a pension escalator in the amount of 2% effective with the installment in which the member next would have received an adjustment had the member lived. If a general city employee who has elected a protective survivorship option under sub. 7-b-4 dies on or after January 1, 1993, while in active service, a beneficiary who is eligible for a spouse survivor allowance under sub. 7-b-2 shall be eligible for a pension escalator in the amount of 2% effective with the installment next following the 8th annual anniversary of the commencement of the spouse survivor allowance. After the first adjustment to the spouse survivor allowance, there shall be an additional 2% escalator to the spouse survivor allowance in each successive year effective on each subsequent anniversary of the first adjustment to the spouse survivor allowance. Each successive adjustment to the spouse survivor allowance shall be computed on the spouse survivor allowance as previously adjusted. Beneficiaries, other than spouses receiving survivor benefits under sub. 7-b-2 and 4, shall not be eligible for a pension escalator. After January 1, 2000 this subd. shall not apply to members, retired members (or spouse survivors if the member or retired member is deceased) who participate in the combined fund and spouse survivors of members and retired members who participate in the combined fund.

h-5. A general city employee in active service on or after January 1, 2000, who participates in the combined fund shall be eligible for an annual pension escalator of 1.5% effective with the installment next following the second, third and fourth anniversary of his or her retirement, and an annual pension escalator of 2% effective with the installment next following the fifth and each successive anniversary of his or her retirement if he or she retires on a service retirement allowance under par. b or d, a deferred retirement allowance under sub. 6-b-2 or d-2, or an immediate allowance under sub. 6-b-3 or c. Each successive annual increase to the member's allowance under this subd. shall be calculated on the retirement allowance as previously increased. If a member eligible for an adjustment under this subd. retires on a duty disability retirement allowance and converts to a service retirement allowance, the member's adjustment following conversion shall be first payable with the installment next following the second anniversary of his or her conversion and the percentage increase of the annual escalator payable on each anniversary following conversion shall be calculated by reference to the member's date of conversion to a service retirement allowance rather than by reference to the member's date of retirement on disability. If a member who is eligible for an adjustment under this subd. elects a retirement option under sub. 7-b-1, b-2 or b-3 with a spouse survivor allowance payable to the member's surviving spouse after the member's death in proportionate share to the member's reduced retirement allowance, and the member dies after receiving a retirement allowance, the spouse survivor allowance payable on the member's death shall be calculated as a proportionate share of the member's retirement allowance including adjustments under this subd. up to the date of death and the spouse survivor allowance shall be increased by an annual pension escalator payable at the same time and in the same percentage as the increase the member would have received, had the member lived. If a member who is eligible for an adjustment under this subd. elects a protective survivorship option under sub. 7-b-4, with a spouse survivor allowance payable on the member's death in proportionate share to

the member's reduced retirement allowance and the member dies while in active service, the spouse survivor allowance payable on the member's death, shall be increased by an annual pension escalator to the spouse survivor allowance payable at the same time and in the same percentages as the increases the member would have received had the member retired on the date of the member's death. Each successive annual increase to the spouse survivor allowance under this subd. shall be calculated on the spouse survivor allowance as previously increased.

h-6. Firemen or policemen in active service on or after January 1, 1993, who become eligible to retire on a service retirement allowance under sub. 1-b or f on or after January 1, 1993, firemen or policemen who retire on a duty disability retirement allowance of 75% of current annual salary for their position under sub. 3-c-1-a between January 1, 1993 and December 31, 1994 and thereafter convert to a service retirement allowance under sub. 3-c-3-c, policemen in active service on or after January 1, 1995 who separate from service with 25 years of creditable service as a policeman and elect a deferred retirement allowance under sub. 6-e, firemen or policemen who retire on a duty disability allowance of 75% of current salary for their position under sub. 3-c-1-a on or after January 1, 1995 and who are eligible to elect between a service retirement allowance and a duty disability allowance under sub. 3-c-3-f, firemen or policemen who participate in the combined fund and who separate from service on or after January 1, 2000, and elect a deferred retirement under sub. 6-b-2, d-2 or e, and firemen or policemen who participate in the combined fund and who separate from service on or after January 1, 2000 and elect an immediate allowance under sub. 6-b-3 or c shall have the monthly service retirement pension installment which they received in the preceding December increased by the cost of living increase as measured by the increase in the Consumer Price Index (All Urban Consumers - CPI-U) U.S. Cities Average as reported by the U.S. Department of Labor, Bureau of Labor Statistics, for the preceding calendar year, but in no event shall such increase be in an amount which exceeds 3% of such installment. For firemen or policemen

### 36-05-1-h-7 Employees' Retirement System

who become eligible to retire on service retirement allowance between January 1, 1993 and December 31, 1994, and firemen or policemen who retire on a duty disability allowance between January 1, 1993 and December 31, 1994 and subsequently convert to service retirement allowance, the first increase in the monthly installment shall occur on March 1 of the calendar year following the first full calendar year of the member's service retirement or conversion to a service retirement and subsequent increases in the monthly installment shall occur in the installment next following each subsequent anniversary on March 1 of each calendar year thereafter. For firemen or policemen who retire or become eligible to retire on a service retirement allowance on or after January 1, 1995, policemen who separate from active service on or after January 1, 1995 and elect a deferred retirement allowance under sub. 6-f, firemen or policemen who retire on a duty disability allowance on or after January 1, 1995, and firemen and policemen who participate in the combined fund and who separate from active service on or after January 1, 2000 and elect a deferred retirement under sub. 6-b-2, d-2 or e, or an immediate allowance under sub. 6-b-3 or c, the first increase shall occur in the monthly installment next following the first full year of the member's service retirement, deferred retirement, immediate allowance or election between a service retirement or duty disability retirement and subsequent increases in the monthly installment shall occur in the installment next following each annual anniversary thereafter. If a member who is eligible for an increase under this subd. selects a retirement option under sub. 7-b-1, b-2, b-3 or b-4 with a spouse survivor allowance payable to the member's surviving spouse after the member's death in a proportionate share to the member's reduced service retirement allowance, the spouse survivor allowance payable on death shall be computed based on the amount of the member's service retirement allowance including increases under this subd. at the date of death and the monthly survivor allowance installment shall be increased by the cost of living as calculated in the manner provided for the member under this subd. If the member dies after service retirement but prior to receiving an increase pursuant to this

subd., the spouse survivor allowance shall be increased effective with the pension installment in which such member would have received an increase had the member lived. If the member dies after having received an increase prior to death under this subd., the spouse survivor allowance shall be increased effective with the pension installment in which the member would have received the next increase had the member lived. If the member has selected a retirement option under sub. 7-b-4 and dies in active service on or after January 1, 1993, the spouse survivor allowance shall be increased effective with the pension installment payable March 1 of the calendar year next following the first full calendar year after the member's death. After the first increase to the spouse survivor allowance monthly installment, there shall be an additional increase for the cost of living in the spouse survivor allowance calculated in the manner provided for the member under this subd. in each successive year effective with the pension installment on the anniversary of the previous increase to the survivor allowance. Except as otherwise specifically provided herein, this subd. shall not apply to firemen or policemen or the spouse survivors of firemen or policemen who receive a retirement allowance authorized under sub. 6-b-2, 6-b-3, 6-c or 6-d-2.

h-7. A fireman represented by Local 215, in active service on or after January 1, 1998, a policeman represented by the MPA, in active service on or after January 1, 1998, a policeman represented by the MPSO, in active service on or after January 1, 1999, or an unrepresented policeman and fireman in active service on or after January 1, 2000 (and his or her spouse survivor if the member is deceased), shall receive a minimum annual cost of living adjustment at the time of their annual cost of living adjustment under subd. 6 of not less than 2% if the member participates in the combined fund and retires on a service retirement allowance under par. b or f, or if the member participates in the combined fund and dies in active service after electing a protective survivor option with a spouse survivor receiving a proportional share of the member's pension. The minimum annual cost of living adjustment shall be calculated on the service retirement allowance or spouse survivor allowance as



previously increased. (Par. h cr. File #891650, Jan. 16, 1990; eff. April 4, 1990. Par. h rn to h-1 File #900239, July 10, 1990; eff. Sept. 25, 1990. Par. h-1 am. File #940423, July 15, 1994; eff. Sept. 28, 1994. Par. h-1 am. File #950521, July 28, 1995; eff. Oct. 3, 1995. Par. h-1 am. File #950597, Sept. 27, 1995; eff. Dec. 13, 1995. Par. h-2 cr. File #900239, July 10, 1990; eff. Sept. 25, 1990. Par. h-2 rp. File #950521, July 28, 1995; eff. Oct. 3, 1990. Par. h-3 cr. File #900239, July 10, 1990; eff. Sept. 25, 1990. Par. h-3 am. File #911154, Oct. 15, 1991; eff. Dec. 31, 1991. Par. h-4 cr. File #921978, April 8, 1993; eff. June 16, 1993. Par. h-4 am. File #940667, July 29, 1994; eff. Oct. 17, 1994. Par. h-4 am. File 941981, April 25, 1995; eff. July 12, 1995. Par. h-4 am. File #950869, Oct. 17, 1995; eff. Jan. 2, 1996. Par. h-4 csra. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. h-5 cr. File #921978, April 8, 1993; eff. June 16, 1993. Par. h-5 csra, (h-5 consolidated as part of h-4) File #991585, April 11, 2001, eff. Jan. 19, 2001. Par. h-5 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. h-6 cr. File #940423, July 15, 1994; eff. Sept. 29, 1994. Par. h-6 am. File #950521, July 28, 1995; eff. Oct. 3, 1995. Par. h-6 am. File #950597, Sept. 27, 1995; eff. Dec. 13, 1995. Par. h-6 am File #991585, April 11, 2000; eff. January 19, 2001. Par. h-7 cr. File 991585, April 11, 2000; eff. Jan. 19, 2001.)

i. Employees retired prior to January 1, 1993.

i-1. The benefits payable under this paragraph are not deferred compensation for services performed by retired members. Any provision of ch. 36 to the contrary notwithstanding, the benefits payable under this paragraph and the terms and conditions under which they are payable are neither contractually guaranteed by the city and the board nor vested in any beneficiary thereof. The city expressly reserves the unilateral right to amend or repeal this paragraph without notice and hearing to or consent of any beneficiary. Members and survivors who separated and received benefits under sub. 6-b-2, 6-b-3, c, d-2 or e shall not be eligible for benefits under this paragraph. This subd. shall not apply on or after January 1, 2000 to retired members and spouse survivors who participate in the combined fund.

i-1-a. Members who retired prior to October 1, 1987 on a service retirement allowance under par. b or f and members who retired on a duty disability allowance and converted to a service retirement allowance under sub. 3-b or 3-c-3 prior to October 1, 1987 shall be eligible for a catch-up adjustment to their service retirement allowance payable with the first installment next following January 1, 1996. Such adjustment shall be a percentage change to the retirement allowance equal to the greater of the total percentage change in the cost of living for each full calendar month between the eighth anniversary of the member's service retirement and October 1, 1995 or the total percentage change required to bring the member's allowance to 60% of the whole inflation adjusted value of the member's allowance at the time of retirement. The percentage change in the cost of living shall be measured by the increase in the Consumer Price Index (All Urban Consumers - CPI-U) U.S. Cities as reported by the U.S. Department of Labor, Bureau of Labor Statistics. The whole inflation adjusted value of a pension at the time of retirement shall be the sum of the product of the service retirement allowance at the time of retirement multiplied by the total percentage change in the cost of living during each full calendar month between retirement and October 1, 1995 added to the member's service retirement allowance at the time of retirement. Beneficiaries other than spouses receiving survivor benefits or protective survivor benefits shall not be eligible for benefits under this subparagraph. If a member eligible for a service retirement allowance under par. b or f elected a protective survivor option, expressed as a percentage of the member's pension, and died while in active service prior to October 1, 1987, the surviving spouse under such option shall be eligible for a catch-up adjustment to their survivor allowance payable with the first installment next following January 1, 1996 in a percentage change to the survivor allowance equal to the greater of the total percentage change in the cost of living for each full calendar month between the eighth anniversary of the member's death and October 1, 1995 or the total percentage change required to bring the survivor allowance to 60% of the whole inflation adjusted value of

### 36-05-1-i-2-a Employees' Retirement System

the survivor allowance at the date of death. If a member, who retired prior to October 1, 1987 on a service retirement allowance under par. b or f, elected a spouse survivor option, expressed as a percentage of the member's pension, and died following retirement, but prior to October 1, 1995, the surviving spouse under such option shall be eligible for a catch-up adjustment to their survivor allowance payable with the first installment next following January 1, 1996 in a percentage change to the survivor allowance equal to the greater of the total percentage change in the cost of living for each full calendar month between the eighth anniversary of the member's retirement and October 1, 1995 or the total percentage change required to bring the survivor allowance to 60% of the whole inflation adjusted value of the spouse survivor allowance at the time of the member's retirement. If a member, retired prior to October 1, 1987 on a service retirement allowance under par. b or f, elected a spouse survivor option, expressed as a percentage of the member's pension and dies while eligible for catch-up under subpar. a, the surviving spouse under such option shall have the member's catch-up included in the member's allowance in calculating the spouse survivor allowance expressed as a percentage of the member's allowance.

i-2-a. Members who retired prior to January 1, 1993 on a service retirement allowance under par. b or f and members who retired on a duty disability allowance and converted to a service retirement allowance under sub. 3-b or 3-c-3 prior to January 1, 1993 shall be eligible for a pension escalator to their service retirement allowance of up to 2% effective with the installment next following the later of the 8th annual anniversary of service retirement or January 1, 1996 and an additional pension escalator of up to 2% in each successive year effective on each subsequent anniversary of the first adjustment. The first escalator shall be computed on the service retirement allowance as previously adjusted under subd. 1-a. Each successive escalator shall be computed on the service retirement allowance as previously escalated. The payment of each pension escalator or successive escalator first payable in 1997 or in a year subsequent to 1997 shall be subject to the limitations of s. 36-08-2-a. Beneficiaries

other than spouses receiving survivor benefits or protective survivor benefits under sub. 7-b-2 shall not be eligible for benefits under this subparagraph. If a member, who elected a spouse survivor option and retired prior to January 1, 1993 on service retirement allowance under par. b or f, dies, a surviving spouse who is eligible for a spouse survivor allowance under sub. 7-b-2 shall be eligible for a spouse survivor pension escalator to their survivor allowance of up to 2% effective with the installment next following the later of the 8th anniversary of the member's service retirement or January 1, 1996. If a member elected a protective survivor option and died prior to January 1, 1993 while in active service, a surviving spouse who is eligible for a spouse survivor allowance under sub. 7-b-2 shall be eligible for a spouse survivor pension escalator to their spouse survivor allowance of up to 2% effective with the installment next following the later of the eighth anniversary of the member's death or January 1, 1996. A spouse receiving a spouse survivor pension escalator shall be eligible for an additional escalator of up to 2% in each successive year effective on each subsequent anniversary of the first escalator to the spouse survivor allowance. The first escalator shall be calculated on the spouse survivor allowance as previously adjusted under this subd. Each successive escalator to the spouse survivor allowance shall be computed on the spouse survivor allowance as previously escalated. The payment of each escalator or successive escalator first payable in 1997 or in a year subsequent to 1997 shall be subject to the limitations of s. 36-08-2-a. After January 1, 2000 this subpar. shall not apply to members, retired members or spouse survivors (if the member or retired member is deceased) who participate in the combined fund and spouse survivors of members and retired members who participate in the combined fund.

i-2-b. Effective January 1, 2000, the annual escalator payable under par. h-5 shall be extended to a general city employe, fireman or policeman, retired on a service retirement allowance under par. b, d-3 or f, a general city employe, a fireman or policeman, retired on a duty disability retirement allowance who converted to a service retirement allowance or a general city employe, a fireman or policeman,

separated from service who retired on a deferred retirement allowance under sub. 6-b-2, 6-d-2 or 6-e or an immediate allowance under sub. 6-b-3 or 6-c and their spouse survivor eligible to receive a proportionate share of the member's allowance if the member (or spouse survivor if the member is deceased) is a participant in the combined fund and the member is a general city employee retired on a service retirement allowance, duty disability retirement allowance or separated from service prior to January 1, 2000 or a fireman or policeman retired on a service retirement allowance, duty disability retirement allowance or separated from service prior to January 1, 1993. If a member eligible for an escalator under this subpar. was eligible for an annual escalator under subpar. a prior to January 1, 2000, the annual escalator payable under this subpar. shall be effective upon the anniversary of the escalator payable under subpar. a if such anniversary is different from the anniversary of the installment next following service retirement. If a member referred to above retires on a duty disability retirement allowance and converts to a service retirement allowance the conversion date shall be used for purposes of determining both the eligibility and the percentage increase of the annual escalator to which the member or spouse survivor is eligible. Effective January 1, 2000, the annual escalator payable under par. h-6 shall be extended to a fireman and policeman who retired on a duty disability retirement allowance of 75% of current salary for their position under sub. 3-c-1-a between October 17, 1992 and December 31, 1994 if he or she is eligible to elect between a service retirement allowance and a duty disability allowance under sub. 3-c-f effective with the installment next following one year after eligibility for an election to convert to a service retirement. Effective January 1, 2000 the annual escalator payable under par. h-6 shall be extended to a fireman or policeman who separated from service between January 1, 1993 and December 31, 1999 and retired on a deferred retirement allowance under sub. 6-b-2 or 6-d-2 or separated from service between January 1, 1995 and December 31, 1999 and retired on a deferred retirement allowance under sub. 6-e or separated from service between January 1, 1993 and December 31, 1999 and retired on

an immediate allowance under sub. 6-b-3 or c and his or her spouse survivor eligible to receive a proportionate share of the member's allowance if the member (or spouse survivor if the member is deceased) is a participant in the combined fund and the member separated from service prior to January 1, 2000. If a member who is eligible for an increase under this subpar. dies on or after January 1, 2000 his or her spouse's proportionate share of spouse survivor allowance shall be computed based on the amount of the deceased member's allowance including increases at the date of death and the spouse survivor shall be eligible for an annual escalator to his or her spouse survivor allowance at the same time and in the same percentages as the deceased member would have received had the deceased member continued to live. (*Par. i cr. File #942016, July 14, 1995; eff. Sept. 27, 1995. Par. i-1-0 am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. i-1-a and b csrn. to i-1-a, File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. i-2-a and b csra. to i-2-a, File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. i-2-b cr. File # 991585, April 11, 2000; eff. Jan. 19, 2001.*)

**2. ORDINARY DISABILITY RETIREMENT ALLOWANCE.** a. Years of Service. a-1. Upon the application for ordinary disability retirement made by a member in active service, or the head of the department or agency employing him where such member is prevented from filing because he is incapacitated, and who has had 10 or more years of creditable service such member may be retired by the board not less than 30 and not more than 90 days next following the date of filing such application for an ordinary disability retirement allowance, provided the medical council, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired. (*Subd. 1 am. Ch. Ord, 382, File #71-2300, Mar. 21, 1972.*)

a-2. If, however, such member has less than 10 years of creditable service, he may apply for disability retirement allowance, but such allowance shall be limited in the duration of its payment to a period of time equal to 1/4 of the entire period of service rendered by such

### 36-05-2-b Employees' Retirement System

member. If a member granted a limited disability retirement allowance under this subsection is not restored to active service, there shall be refunded to him at the time of the termination of his retirement allowance a lump sum equal in amount to the difference between the amount of his accumulated contributions at the time of his retirement and the sum of the payments actually made to him during his disability retirement which is the actuarial equivalent of his accumulated contributions, conditioned as provided in sub. 6-a. (*Subd. 2 am Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

a-3. Any pre-existing physical condition as determined from a medical examination conducted for the city in connection with the employment of a member shall be deemed a bar to coverage of any disability benefits under this act as a direct or indirect result of such disability. (*Subd. 3 cr. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

a-4. A fireman whose duty it is to provide emergency medical services and who was enrolled as a fireman on June 1, 1989, shall continue to be eligible for an ordinary disability retirement allowance under pars. a and b for a period of 5 years from the date of enrollment as a fireman and shall have all service in a position whose duty it is to provide emergency medical services included for the purpose of computation of creditable service under this par. and the computation of the entire period of service under par. b. (*Subd. 4 cr. File #890598, July 25, 1989; eff. Oct. 14, 1989.*)

b. Disability Allowance. The ordinary disability retirement allowance shall consist of 90% of the service retirement allowance based on the creditable service to the time of disability, with a minimum allowance of 25% of his final average salary, provided that no retirement allowance shall exceed 90% of the allowance the member would receive were his service continued to the minimum service retirement age. (*Par. b am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

c. Firemen and Policemen. Firemen and policemen shall be entitled to ordinary disability benefits as stated hereafter:

c-1. Firemen and policemen who are retired on ordinary disability prior to January 1, 1971, shall be entitled to benefits provided in pars. a and b.

c-2. Firemen and policemen hired before January 1, 1971, but who were in active service on or after January 1, 1971, shall select either the benefits provided in pars. a and b, or the benefits provided under subd. 3.

c-3. The minimum ordinary disability retirement allowance shall consist of an amount equal to 25% of the member's final average salary provided he or she has 5 years of service as a fireman or policeman; for each year of service in excess of 5 years of such service as a fireman or policeman, he shall receive an additional 2% of his or her final average salary. The maximum ordinary disability retirement allowance which shall be payable to any fireman or policeman member on ordinary disability under this subsection shall be limited to 50% of such member's final average salary. Firemen or policemen shall receive a pro rata retirement allowance based upon this formula for service for any period less than a full year. (*Subd. 3 am. File #020471, July 16, 2002; eff. Oct. 1, 2002.*)

c-4. Firemen and policemen hired after January 1, 1971, shall be entitled to the benefits provided in subd. 3 and shall be entitled to no other selection. (*Subd. 4 cr. Ch. Ord. 394, File #72-1435, Nov. 14, 1972.*)

d. Death Prior to Retirement. In the event a policeman or general city employee who applies for an ordinary disability retirement allowance on or after January 1, 1985 or a fireman who applies for an ordinary disability retirement allowance on or after March 1, 1985, dies prior to retirement but after selecting an option under sub. 7, the application shall continue to be processed as though such member shall have continued to live and if such application is approved, the election of an optional benefit shall become effective on the date of the member's death. This paragraph shall not apply in the event of accidental death benefits payable under sub. 5. (*Par. d cr. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985.*)

e. Effective January 1, 2000, the annual escalator payable under sub. 1-h-5 shall be extended to a general city employee who retires or is retired before January 1, 2000, on an ordinary disability retirement allowance and a fireman or policeman who retired prior to January 1, 1993 and on an ordinary disability retirement allowance and his or her spouse

survivor receiving a proportionate share of the member's pension if the member (or spouse survivor if the member is deceased) is a participant in the combined fund. Effective January 1, 2000, the annual escalator payable under sub. 1-h-6 shall be extended to a fireman or policeman who retires on or after January 1, 1993 on an ordinary disability retirement allowance and his or her spouse survivor receiving a proportionate share of the member's pension if the member (or spouse survivor if the member is deceased) is a participant in the combined fund. If a member who is eligible for an increase under this sub. dies while on ordinary disability on or after January 1, 2000, his or her spouse's proportionate share spouse survivor allowance shall be computed based on the amount of the member's ordinary disability retirement allowance including increases at the date of death. The annual escalator shall be payable to the member or spouse survivor at same times and in the same percentages as the increases the member would have received had the member retired on a service retirement allowance on the date of his or her ordinary disability retirement. (*Par. e cr. File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

**3. DUTY DISABILITY RETIREMENT ALLOWANCE.** a. While in Active Service. Any member in active service who shall become permanently and totally incapacitated for duty as the natural and proximate result of an injury occurring at some definite time and place while in the actual performance of duty shall, upon filing a request for retirement with the board on a form provided by the board for that purpose, be entitled to a duty disability retirement allowance to begin not less than 30 nor more than 90 days after the filing of the application therefor, provided the medical council or medical panel after a medical examination of such member shall certify that such member is mentally or physically incapacitated for further duty as a result of such service injury and such incapacity is likely to be permanent and such member should be retired. No beneficiary entitled to a duty disability retirement allowance shall receive any allowance on account of ordinary disability. No person first employed by the city as a fireman or paramedic on or after December 1, 1983, shall be eligible to receive a duty disability retirement allowance

as a result of an injury occurring during the period he or she is assigned to the Fire Academy or Medical College of Wisconsin for recruit training. No person first employed by the city as a policeman on or after August 1, 1985, shall be eligible to receive a duty disability retirement allowance as a result of an injury occurring prior to field training during the period he or she is assigned to the Police Academy for recruit training. No person first employed by the city as a police aide on or after July 1, 1985, shall be eligible to receive a duty disability retirement allowance as a result of an injury occurring while in the performance of duty. (*Par. a am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Par. a am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Par. a am. File #881103, September 20, 1988; eff. Dec. 5, 1988.*)

b-1. Allowance. The duty disability retirement allowance shall equal the service retirement allowance if such member has attained the minimum service retirement age; otherwise it shall consist of an allowance which is the actuarial equivalent of his accumulated contributions, plus an additional retirement allowance equal to 75% of his final average salary. (*Par. b am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972; Par. b renumbered b-1, File #921978, Apr. 8, 1993; eff. June 16, 1993.*)

b-2. If a general city employee is found to be eligible for a duty disability retirement allowance referred to in par. g-0 which is first effective prior to the member attaining age 55, such member shall mandatorily convert to a service retirement allowance upon attaining age 60. If a general city employee is found to be eligible for a duty disability retirement allowance referred to in par. g-0 which is first effective after the member attains the age of 55, such member shall mandatorily convert to a service retirement allowance after attaining age 60 or after the expiration of the maximum period under par. g-2, whichever is later. If the maximum period for a general city employee referred to in par. g-2 extends beyond age 60, such member shall be eligible to voluntarily convert to a service retirement allowance commencing at age 60. (*Subd. 2 cr. File #921978, Apr. 8, 1993, eff. June 16, 1993. Subd. 2 am. File #940667, July 29, 1994; eff. Oct. 17, 1994. Subd. 2 am. File #950869, October 17, 1995; eff. January 2, 1996.*)

### 36-05-3-c Employees' Retirement System

b-3. Effective January 1, 2000, the annual escalator payable under sub. 1-h-5 shall be extended to a general city employee who retires and is receiving a duty disability allowance and his or her spouse survivor receiving a proportionate share of the member's pension if the member (or spouse survivor if the member is deceased) participates in the combined fund. If a member who is eligible for an increase under this sub. dies while on duty disability on or after January 1, 2000, his or her spouse's proportionate share spouse survivor allowance shall be computed based on the amount of the member's duty disability retirement allowance including increases at the date of death. The annual increase shall be payable to the member or spouse survivor at the same times and in the same percentages as the increases the member would have received had the member retired on a service retirement allowance on the date of his or her duty disability retirement. (*Subd. 3 cr. File # 991585, April 11, 2000; eff. Jan. 19, 2001.*)

c. Firemen and Policemen Duty Disability. c-1. Medical Panel, etc. Firemen and policemen who are eligible for duty disability retirement allowance shall file a request therefor with the board on a form provided by it for that purpose; such disability shall be determined as follows:

c-1-a. Recommendations. Except for policemen represented by the Milwaukee Police Association who become members after June 28, 2005, and firemen represented by Local 215, IAFF, who become members of the retirement system after December 13, 2005 and apply for duty disability retirement allowance based on a mental injury, such member shall be examined by a medical panel and such medical panel shall make the examination, determination and certification required under this act in accordance with the form prescribed by the board. If the panel recommends that such person is entitled to duty disability retirement allowance provided for in this section, the board shall thereupon grant such allowance. For policemen represented by the Milwaukee Police Association who become members of the retirement system after June 28, 2005, and firemen represented by Local 215, IAFF, who become members of the retirement system after December 13, 2005 and apply for a duty disability retirement allowance based on a

mental injury, the application shall be referred to the medical council established under s. 36-15-12, in lieu of the medical panel, which medical council shall make the determination and certification required under this act. In any reexamination authorized by this act of such retired beneficiary, the beneficiary shall be referred to the medical council, in lieu of the medical panel, for reexamination and such medical council shall make the determination and certification required under this act. Except as otherwise provided in subd. 3-f, any fireman or policeman who shall become disabled as the direct result of injury incurred in the performance of one or more specific acts of duty shall have a right to receive duty disability benefit during the period of such disability of an amount equal to 75% of the current annual salary for such position which he held at the time of such injury. Except as otherwise provided in subd. 3-f, the surviving spouse of such member after his or her death but only during the period prior to remarriage shall receive 70% of the amount of the duty disability which the member received at the time of his or her death, and such percentage shall thereafter be based upon the salary of the position of such member at the time of his or her death. Prior to such person attaining the minimum service retirement age, periodic medical examinations of such person shall be made at least once each year but the heads of the respective departments may direct more frequent examinations. Effective January 1, 2000, the annual escalator payable under sub. 1-h-5 shall be extended to the allowance received by the surviving spouse of a retired fireman or policeman who retired on a duty disability retirement allowance under this subpar. prior to January 1, 1993 and died while receiving a duty disability retirement allowance if the member (or the surviving spouse of the member is deceased) participates in the combined fund. Effective January 1, 2000, the annual escalator payable under sub. 1-h-6 shall be extended to the allowance received by the surviving spouse of a retired fireman or policeman who retired on a duty disability allowance under this subpar. on or after January 1, 1993 and dies while receiving a duty disability retirement allowance if the member (or the surviving spouse of the member is deceased) participates in the combined fund. The annual escalator shall be payable to the

surviving spouse at the same times and in the same percentages as the increases the member would have received had the member retired on a service retirement allowance on the date of his or her death. (*Subpar. a am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Subpar. a am. Ch. Ord. 565, File #861820, Feb. 24, 1987; eff. May 11, 1987. Subpar. a am. File #940423, July 15, 1994; eff. Sept. 28, 1994. Subpar. a am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Subpar. a am. File #001071, Nov. 28, 2000; eff. Feb. 13, 2001. Subpar. a am. File #041649, April 12, 2005; eff. June 28, 2005. Subpar. a am. File #050475, Sept. 27, 2005; eff. Dec. 13, 2005.*)

c-1-b. Case Review. In the event a member receiving a duty disability retirement allowance is later determined to be fit for service he shall be restored to service in his department and he shall no longer be entitled to receive a duty disability retirement allowance. The board may at any time request information concerning such person or investigate his status or request a medical examination of such person. The provisions of ss. 36-07-2 and 3 and 36-12 shall apply in all respects to such person entitled to receive a duty disability retirement allowance. In the event however that such fireman or policeman who is eligible to recover duty disability has a disability involving the loss of use of both eyes or the full loss of use of one eye and one limb or the full loss of the use of 2 limbs or an equivalent disability that would impair the member's (retiree's) ability to earn a livelihood and such disability is determined by majority action of the medical panel or medical council, then in such event the disabled fireman or policeman shall receive a duty disability pension of 90% of his current salary, and the board may waive the annual medical examination by the said panel or medical council of physicians; but in lieu thereof the disabled fireman or policeman annually shall submit a report from his personal physician to the board. If such panel or medical council reaches a determination unfavorable to the fireman or policeman on duty disability he may after 6 months but not later than one year request a reexamination by the medical council, or the convening of a second 3-physician panel to be constituted in the same manner and for the same purpose as the initial panel but such request shall be in writing. If an unfavorable result is reached, the fireman or policeman may

seek further review but not sooner than 12 months from the last determination. This benefit shall be in lieu of any other benefits provided in this act for duty disability allowances. (*Subpar. b am. Ch. Ord. 565, File #86-1820, Feb. 24, 1987; eff. May 11, 1987. Subpar. b am. File #041649, April 12, 2005; eff. June 28, 2005.*)

c-1-c. Recomputation. Recomputation of the amount of disability benefits shall occur once whenever there is a salary adjustment in the salary for such position. Such adjustment shall thereupon become effective at once. If the position from which the member retired under a duty disability is eliminated, then the city service commission shall determine in what manner the current annual salary shall be established for such position for purposes of determining disability payments under this section.

c-1-d. Surviving Spouse and Child Benefits. The surviving spouse of such member after his or her death but only during the period prior to remarriage shall receive 75% of the amount of duty disability which the member received at the time of his or her death and such percentage shall thereafter be based upon the salary of the position of such member at the time of his or her death. The period of time during which duty disability benefits shall be paid shall in no event be less than the time provided for under similar circumstances in this act prior to this amendment. Any such fireman or policeman shall also have a right to receive child's disability benefit of amounts of \$40 a month on account of each child less than 18 years of age; provided, the total amount of child's disability benefits which shall be granted or paid to any such fireman or policeman shall not exceed 20% of the salary as aforesaid to such fireman or policeman. Such benefit or benefits shall be paid to such disabled fireman or policeman periodically according to rules concerning such benefits to be adopted by the retirement board. (*Subpar. d am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985.*)

c-1-e. Maximum Allowance. Except for a policeman or a fireman receiving a duty disability allowance of 90% of current salary under this section, the duty disability allowance together with outside earnings shall not exceed 100% of the current annual salary, and in the event outside earnings together with the duty disability allowance exceed 100% the duty

### 36-05-3-c-2 Employees' Retirement System

disability allowance shall be reduced in the amount that such earnings together with the duty disability allowance exceed 100%, as provided in part 2 of charter ord. 416, File #73-1842, passed Oct. 8, 1974. (*Subpar. e am. Ch. Ord. 526, File #83-986, Sept. 27, 1983.*)

c-2. Effective Date. It is declared to be the intent of charter ord. 380, File #70-2025, passed by the common council on February 8, 1972, that persons who were on duty disability from and after January 1, 1971, but whose duty disability was terminated prior to the effective date of charter ord. 380 by returning to active employment shall be entitled to the benefits provided by charter ord. 380 for the period of time from January 1, 1971, to the time when they returned to such active employment predicated upon the computations set forth in charter ord. 380. All the conditions referred to in charter ord. 380 shall also be applicable to this charter ordinance. (*Ch. Ord. 386, File #70-2025-a May 26, 1972.*)

c-3. Period of Eligibility.

c-3-a. Policemen who are found to be eligible for a duty disability retirement allowance prior to November 1, 1976 and firemen who are found to be eligible for a duty disability retirement allowance prior to October 1, 1977, shall continue to receive such allowance for life during their period of eligibility.

c-3-b. Policemen who are found to be eligible for a duty disability retirement allowance on or after November 1, 1976 and firemen who are found to be eligible for a duty disability retirement allowance on or after October 1, 1977, shall continue to receive such allowance during their period of eligibility until they reach the first of the next month following age 63, at which time they shall commence to receive a service retirement allowance to be computed as provided in s. 36-04-3-a.

c-3-c. Firemen who are found to be eligible for a duty disability retirement allowance on or after March 1, 1984 and policemen who are found to be eligible for a duty disability retirement allowance based upon filing a request for retirement with the board on or after August 1, 1985, shall continue to receive such allowance during their period of eligibility until they reach the first of the next month following their minimum service retirement age as provided in sub. 1-b, at which time they shall commence to receive a service retirement allowance to be computed as provided in s. 36-04-3-a.

c-3-d. Firemen who are found to be eligible for a duty disability retirement allowance based upon filing a request for retirement with the

board on or after February 22, 1988 and policemen who are not members of the Milwaukee Police Association bargaining unit and found to be eligible for a duty disability retirement allowance based upon filing a request for retirement with the board on or after January 1, 1988, shall continue to receive such allowance during their period of eligibility until they reach the first of the next month following their minimum service retirement age, as provided in sub. 1-b or their attainment of the age of 54 years and completion of 25 years of creditable service as a fireman or policeman, whichever shall come first, at which time they shall commence to receive a service retirement allowance to be computed as provided in s. 36-04-3-a.

c-3-e. Policemen found to be eligible for a duty disability retirement allowance based upon filing a request for retirement with the board on or after January 1, 1990 and firemen found to be eligible for a duty disability retirement allowance based upon filing a request for retirement with the board on or after December 17, 1989, shall continue to receive such allowance during their period of eligibility until they reach the first of the next month following their minimum service retirement age, as provided in sub. 1-b or their attainment of the age of 52 years and completion of 25 years of creditable service as a fireman or policeman, whichever shall come first, at which time they shall commence to receive a service retirement allowance to be computed as provided in s. 36-04-3-a.

c-3-f. Firemen or policemen who retire on a duty disability retirement allowance on or after October 17, 1992 shall continue to receive their allowance during their period of eligibility until they reach the first of the month next following their minimum service retirement age as provided in sub. 1-b or their attainment of age 52 and completion of 25 years of creditable service as a fireman or policeman, whichever shall come first, at which time they shall convert to a service retirement allowance if they do not irrevocably elect to continue to receive their duty disability retirement allowance as provided in this subd. The member shall make such election in writing on a form prescribed by the board at any time within 6 months prior to the conversion date.



If a member elects to continue to receive a duty disability allowance, the member shall receive an amount equal to the amount the member would have received had the member converted to service retirement allowance provided, however, the amount the member shall receive shall not be more than 75% of the current annual salary for the position held at the time of the member's injury nor less than 57% of a fireman or 60% in the case of a policeman of the current annual salary for the position held at the time of the member's injury. During 6 months prior to the conversion date, the member may also irrevocably elect a spouse survivor option under sub. 7-b-1, 7-b-2 or 7-b-3. If the member elects a spouse survivor option, the spouse survivor allowance shall be effective at the same time, calculated in the same manner and subject to the same terms and conditions as would have been the case had the member converted to a service retirement allowance and elected such option. This subd. shall not apply to members or the surviving spouses of members who are eligible to receive a duty disability retirement allowance of 90% of current salary for the position under subd. 1-b. Members who irrevocably elect to continue their duty disability retirement allowance under this subd. shall not be eligible to continue to receive an amount equal to 75% of current salary under subd. 1-a and their surviving spouses shall not be eligible to receive 70% of the amount received by the member under subd. 1-a.

c-3-g. Notwithstanding any provision of subd. b to f to the contrary, a policeman or fireman receiving a duty disability allowance of 90% of current salary under this section shall continue to receive such allowance for life during their period of eligibility for such 90% duty disability allowance and such fireman's or policeman's surviving spouse after the member's death and prior to remarriage shall continue to be eligible to receive 75% of the amount which the member received at death. (*Subd. 3 am. Ch. Ord. 554, File #85-845, Oct. 1, 1985, eff. Dec. 15, 1985. Subd. 3 am. File #872401, May 17, 1988, eff. Aug. 2, 1988. Subd. 3 am. File #872396, Sept. 20, 1988, eff. Dec. 5, 1988. Subd. 3 am. File #881667, Dec. 20, 1988, eff. March 13, 1989. Subd. 3 am. File #890633, July 25, 1989, eff. Oct. 14, 1989. Subd. 3 am. File #891650, Jan. 16, 1990, eff. April 4, 1990. Subd. 3 am. File #900239, July 10, 1990, eff.*

*Sept. 25, 1990. Subd. 3 rc. File #901940, March 26, 1991, eff. June 11, 1991. Subd. 3-f ra. to 3-g File #940423, July 15, 1994, eff. Sept. 28, 1994. Subd. 3-f cr. File #940423, July 15, 1994, eff. Sept. 28, 1994. Subd. 3-f am. File #950521, July 28, 1995, Oct. 3, 1995. Subd. 3-f am. File 951195, Dec. 19, 1995, eff. March 13, 1996. Subd. 3-g am. File #950521, July 28, 1995, eff. Oct. 3, 1995.)*

d. Special Fund. Duty disability retirement allowances for retirees who are not participants in the combined fund shall be paid specifically from a special fund created for that purpose and the city shall be liable for contributions to such fund in order that it may be adequate to meet the required payments. City agencies that are also covered by this act shall be required to contribute to such fund the cost of duty disability allowances for members in their employment who are entitled thereto.

(*Par. d am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972. Par. d am. File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

e. Death Prior to Retirement. In the event a policeman who applies for a duty disability retirement allowance on or after January 1, 1985, or a fireman who applies for a duty disability retirement allowance on or after March 1, 1985, dies prior to retirement leaving a surviving spouse, the application shall continue to be processed as though the member shall have continued to live and if such application is approved, the surviving spouse's benefit shall become effective as of the date of the member's death. In the event a general city employee who applies for a duty disability retirement allowance on or after January 1, 1985, dies prior to retirement but after selecting an option under sub. 7, the application shall continue to be processed as though such member shall have continued to live and if such application is approved, the election of an optional benefit shall become effective on the date of the member's death. This paragraph shall not apply in the event accidental death benefits are payable under sub. 5. (*Par. e cr. Ch. Ord. 554, File #85-845, Oct 1, 1985, eff. Dec. 15, 1985.*)

g. Older Worker's Benefit Protection Act.

Note: par. g repealed pursuant to File #000697, September 22, 2000, eff. December 11, 2000. Notwithstanding the repeal of par. g, its provisions continue to apply to a number of general city employees; the text of the repealed par. g follows:

## 36-05-5 Employees' Retirement System

g. **Older Worker's Benefit Protection Act.** General city employees hired on or after October 17, 1992, and general city employees hired prior to October 17, 1992, who elected an optional benefit under par. f and apply for a duty disability retirement allowance on or after January 1, 1993, will be eligible for a duty disability retirement allowance on the same terms as the duty disability retirement allowance which would otherwise apply to them except:

g-1. The amount of the member's benefit shall be 72% of final average salary. Effective with the installment next following the month such member attains age 62, the member's benefit shall be reduced by the amount of the service retirement allowance which would be payable upon voluntary conversion at age 62 under par. b-2.

g-2. If a member is between the ages of 55 and 59 at the time the benefit is first effective, the member shall continue to receive benefits during the period of eligibility until the member attains age 60 or the expiration of a maximum period of 46 months, whichever is later. If a member is between the ages of 60 and 65 at the time the benefit is first effective, the member shall continue to receive benefits during the period of eligibility until the expiration of a maximum period of 27 months. If a member has attained 65 years of age at the time the benefit is first effective, the member shall continue to receive benefits during the period of eligibility until the expiration of a maximum period of 16 months. (*Par. g cr. File #921978, Apr. 8, 1993; eff. June 16, 1993. Par. g-0 am. File #940667, July 29, 1994; eff. Oct. 17, 1994. Par. g-0 am. File #950869, October 17, 1995; eff. January 2, 1996. Par. g rp File #000697, Sept. 22, 2000, eff. Dec. 11, 2000.*)

i. General city employees who retire on a duty disability retirement allowance on or after January 1, 1995 (on or after August 16, 1994 for employees represented by the Milwaukee Building and Construction Trades Council, AFL-CIO), shall be eligible for and receive a duty disability retirement allowance equal to 75% of final average salary. General city employees who have not attained the age of 60 years at the time of such retirement shall continue to receive such allowance during their period of eligibility until they reach the first of the month next following age 65, at which time they shall convert to a service retirement allowance. General city employees who have attained the age of 60 years at the time of such retirement shall continue to receive such allowance during their period of eligibility for a period of 5 years, at which time they shall convert to a service retirement allowance. (*Par. i cr. File #941981, April 25, 1995; eff. July 12, 1995; Par. i am. File #951195, December 19, 1995; eff. March 13, 1996. Par. i am. File #000697, Sept. 22, 2000; eff. Dec. 11, 2000.*)

### 5. ACCIDENTAL DEATH BENEFIT.

a. **Spouse or Child's Annuity.** Upon receipt of proper proofs of the death of a member in active service containing evidence acceptable to the board that such death was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty, the board, in lieu of the ordinary death benefit of a lump sum payment of 1/2 the final average salary of such deceased member, shall grant a pension of 60% of the final average salary of such deceased member and the return of accumulated contributions of such member to: (*Par. a-0 am. Ch. Ord. 370, File #71-239, May 24, 1971; Par. a-0 am. Ch. Ord. 379, File #69-2460-f, Feb. 8, 1972.*)

a-1. His widow or her widower. Effective January 1, 2000, the annual escalator payable under sub. 1-h-5 shall be extended to such widow or widower of a general city employee who died at any time or of a fireman or policeman who died prior to January 1, 1993 if the member (or widow or widower if the member is deceased) participates in the combined fund. Effective January 1, 2000, the annual escalator payable under sub. 1-h-6 shall be extended to such widow or widower if a fireman or policeman who dies on or after January 1, 1993 if the member (or widow or widower if the member is deceased) participates in the combined fund. The annual escalator shall be payable to the widow or widower at the same times and in the same percentages as the increases the member would have received had the member retired on a service retirement allowance on the date of his or her death. (*Par. a-1 am. Ch. Ord. 370, File #71-239, May 24, 1971. Par. a-1 am. Ch. Ord. 379, File #69-2460-f, Feb. 8, 1972. Par. a-1 am. File 950294, June 27, 1995; eff. Sept. 13, 1995. Par. a-1 am. File #990234, June 2, 1999; eff. Aug. 18, 1999. Par. a-1 am. File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

a-2. If there be no widow or widower, or if the widow or widower dies before the youngest surviving unmarried child of such deceased member attains the age of 21, then to his or her child or children under said age, divided in such manner as the board in its discretion shall determine, to continue until there are no surviving unmarried children of such deceased member under said age; or (*Par. a-2 am. Ch. Ord. 370, File #71-239, May 24, 1971. Par. a-2 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972. Par. a-2 am, File 950294, June 27, 1995; eff. Sept. 13, 1995. Par. a-2 am. File #950562, Sept. 27, 1995; eff. Dec. 13, 1995.*)

a-3. If there be no widow or widower or unmarried children as indicated in subd. 2 surviving such deceased member, then to his or

her dependent father or mother, as the board in its discretion shall direct, to continue for life. For purposes of determining the eligibility of dependents of deceased members for benefits hereunder, "dependency" shall mean that the deceased member shall have contributed 50% or more of the support of such parents during the 3 years preceding his or her death.

*(Par. a-3 am. Ch. Ord. 370, File #71-239, May 24, 1971. Par. a-3 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972. Par. a-3 am, File 950294, June 27, 1995; eff. Sept. 13, 1995.)*

b. When No Dependents. Whenever it shall appear to the satisfaction of the board that relatives, named in par. a-3 are not dependent upon the deceased, then in such instances if the beneficiary is not eligible for the death benefit provided for in sub. 10 because the time of employment was less than that required to receive payment under that section, then the ordinary death benefit shall be payable. *(Par. b am. Ch. Ord. 467, File #78-825, Oct. 3, 1978.)*

c. When Beneficiary Not Eligible. Whenever a beneficiary is not eligible for the benefit under this subsection, then the death benefits under sub. 10 shall be paid. *(Par. c am. Ch. Ord. 467, File #78-825, Oct. 3, 1978.)*

**6. SEPARATION BENEFITS.** a. Return of Contribution. Should a member cease to be an employee except by death or retirement under the provisions of this act, he or she shall be paid his or her accumulated contributions as they were at date of separation from service, upon filing with the board a request for such return of contributions on a form provided by the board for that purpose, except that this provision will not apply to a member enrolled after December 31, 1970, until he or she has completed 8 years of creditable service, and will not apply to a policeman enrolled after June 30, 1983, or a fireman or paramedic enrolled after October 31, 1983, unless he or she has completed 10 years of creditable service. However, with respect to the 1% contribution made by policemen, this provision

shall not be applicable and as to such 1%, such policemen shall have the withdrawal rights without change. The separation benefits provided for in this paragraph as to policemen shall be effective from and after July 1, 1972, and policemen entering this system prior to such date shall be governed by the separation benefits as the same were prior to the enactment of ch. ord. 365, File #70-2387, approved by the common council on February 17, 1971. *(Par. a am. Ch. Ord, 530, File #82-2109-b, Jan. 24, 1984.)*

b. Involuntary Separation. A member who is removed or otherwise involuntarily separated from service for any cause, may elect: *(Par. b am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

b-1. To withdraw his accumulated contributions, as provided in par. a; or *(am. Ch. Ord. 332, File #67-355-a July 25, 1967.)*

b-2. To leave his accumulated contributions in the fund until such member attains the minimum service retirement age, at which time he shall be entitled to a retirement allowance calculated in the same manner as provided in sub. 1, providing his retirement allowance at the above mentioned age equals or exceeds \$25 per month. During the interim between such member's separation from service and the effective date of his retirement, the member's account shall be annually credited with interest at a rate not exceeding the regular interest rate and his retirement allowance shall be calculated accordingly; or

b-3. To receive a retirement allowance beginning immediately that is the actuarial equivalent of the retirement allowance payable under subd. 2, provided the retirement allowance equals or exceeds \$25 or more. *(Subd. 3 am File #020598, July 27, 2004; eff. Oct. 12, 2004.)*

b-4. In the event a member who has exercised the option provided in subd. 2 returns to active service prior to attaining the minimum service retirement age, he shall again become an active member of the retirement system, and the credits for service which he had at the time of such separation shall be restored to him. Upon his subsequent retirement, he shall be credited with his service as a member subsequent to his last restoration to membership and shall receive a retirement allowance computed as if he were a new member and, in addition, he shall receive an allowance for service prior to his reinstatement

### 36-05-6-c Employees' Retirement System

computed on the formula in effect at the time he first left such service.

b-5. Should a beneficiary receiving a retirement allowance under the provisions of subd. 3 be restored to active service, his or her allowance shall cease, and he or she shall again become a member of the retirement system and the credit for service which he or she had at the time of such separation shall be restored to him or her. In the event of subsequent separation, death or retirement, the benefits to be paid shall be reduced by the actuarial equivalent of the retirement allowance under subd. 3 which has not been repaid with interest to the date of repayment. (*Subd. 5 am. File #941491, Feb. 14, 1995; eff. May 2, 1995.*)

b-6. Upon the death of a person before the effective date of his deferred retirement allowance, as provided in subd. 2, there shall be paid to his estate or to such person as he has nominated by written designation, duly executed and filed with the board, a death benefit equal to his accumulated contributions, conditioned as provided in par. a.

b-7. If a member authorized to make an election under this paragraph does not make an election within a time specified by the board, the board may by rule direct the election be made on the member's behalf. (*Subd. 7 cr. File #880375, June 28, 1988; eff. Sept. 13, 1988.*)

c. Voluntary separation, age 55. A member who separates from service for any cause who has at least 15 years of creditable service and who has attained age 55 shall have the same option as given a member under par. b, except, that if he elects to receive an immediate allowance as provided under par. b-3, he shall be required to file his application at least 30 days prior to the time his retirement shall be deemed effective for the purpose of receiving an immediate allowance. Should a member separated from service elect to retire under par. b-3 and subsequently be engaged in a gainful occupation prior to attaining the minimum service retirement age paying more than the difference between his final average salary at the time of retirement and his retirement allowance, he shall be required to submit such information as the board shall require and his allowance shall be reduced by the amount of such excess. (*Par. c am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

d. Deferred Retirement. A member who separates from service for any cause and who has a minimum of 4 years of creditable service may elect one of the following options:

d-1. To withdraw his accumulated contributions, as provided for in par. a; or

d-2. To leave accumulated contributions in the fund until the member shall attain the minimum service retirement age, at which time the member shall be entitled to a retirement allowance which shall be calculated in the same manner as specified in sub. 1; provided, however, that the member has a minimum of 4 years of creditable service and provided the member's allowance is equal to or exceeds the sum of \$25 per month. During the interim of a member's separation from service and the effective date of retirement, the member's account shall annually be credited with interest at a rate not exceeding the regular interest rate and the retirement allowance shall be calculated accordingly. If a member who separated from service and left his or her accumulated contributions in the fund subsequently wishes to withdraw the accumulated contributions prior to retirement, the member shall then be entitled to receive the accumulated contributions credited to the account to the date of separation from service, conditioned as provided in par. a, together with 1/2 the interest credited to the account subsequent thereto, but the member shall have no right to any retirement allowance. Should a member who has elected a deferred retirement subsequently return to service prior to attaining the minimum service retirement age, the member shall again become an active member of this retirement system and the credits for service which he or she had at the time of such separation shall be restored to the member. Upon subsequent retirement the member shall be credited with his or her service as a member subsequent to his or her last restoration to membership and the member shall receive an allowance as if the member were a new member; and in addition the member shall receive an allowance in respect of service prior to his or her last restoration to service computed on the formula in effect at the time he or she first left such service, provided the member has not previously withdrawn contributions as provided under par. b-1. Upon the member's death prior to the time that the member would otherwise be eligible to receive a retirement allowance, there shall be paid to the member's estate or to the member's beneficiary nominated by written designation duly executed and filed with the board prior to the member's death, a death benefit equal to the member's accumulated contributions, conditioned as provided in par. a. Any member

separating from service, as hereinbefore provided for, and desiring to avail himself or herself of the rights under this paragraph shall notify the board in writing within 30 days following the date of separation from service. A general city employee, policeman or fireman who separates from service on or after January 1, 1993, and elects this option may elect to defer commencement of the deferred retirement allowance to a date no later than April 1 of the calendar year in which the member attains age 70-1/2 provided, however, that such election must be made no later than 30 days prior to the previously scheduled date for commencement of the receipt of such deferred retirement allowance.

d-3. If a member authorized to make an election under subd. 2 does not make an election within a time specified by the board, the board may by rule direct the election be made on the member's behalf.

*(Subd. 2 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972; Subd. 2 am. File #921978, Apr. 8, 1993; eff. June 16, 1993; Subd. 2 am. File #940423, July 15, 1994; eff. Sept. 28, 1994. Subd. 2 am. File #950521, July 28, 1995; eff. Oct. 3, 1995. Subd. 3 cr. File #020475, July 16, 2002, eff. Oct. 1, 2002.)*

e. Firemen or Policemen, Deferred Retirement. A member who is a fireman or policeman may elect a deferred retirement allowance prior to reaching age 52, provided he has had 25 years of creditable service as such fireman or policeman by notifying the board in writing of his election to do so, and he shall then be entitled to receive his deferred retirement allowance commencing the first of the month following his 52nd birthday; such allowance shall be determined in accordance with sub. 1. *(Par. e cr. Ch. Ord. 370, File #71-239, May 24, 1971. Par. e am. Ch. Ord. 379, File #69-2460-f Feb. 8, 1972.)*

f. When on Leave. Should any member who has separated from service and elected a separation benefit under pars. b-2, c or d-2 subsequently return to city employment for less than 6 months, he shall not be eligible for additional creditable service for such service, and contributions deducted from the member's compensation during such period shall be returned to him and such service shall not terminate the retirement status of the member. *(Par. f cr. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

g. Less Than One Year's Leave. Should any member who elects a separation benefit under pars. b-2, c or d-2 and subsequently returns to city employment after a lapse of less than one year from the date he left city employment and who remains in city employment until retired for service or disability, he will have his ultimate benefit based on his total creditable service with the city, excluding that period during which he was absent. *(Par. g cr. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.)*

7. OPTIONAL BENEFITS. a. Death Within 30 Days After Retirement. No election of an optional benefit, except under par. b-4, shall be effective in the event the member dies within 30 days after retirement, and the member shall be considered as an active member at the time of death unless the member elected an optional benefit under par. b-4. This paragraph shall not apply to general city employees who retire on a service retirement allowance on or after February 1, 1983, or on an ordinary or duty disability retirement allowance on or after January 1, 1985, to firemen who retire on a service retirement allowance or on an ordinary or duty disability retirement allowance on or after March 1, 1985, or to policemen who retire on a service retirement allowance or on an ordinary or duty disability retirement allowance on or after January 1, 1985.

b. Retirement Options. Until the effective date of retirement, any member may elect to convert the retirement allowance into a reduced retirement allowance that is the actuarial equivalent of the retirement allowance otherwise payable as follows:

b-1. "OPTION 2". A reduced retirement allowance payable during the member's life, with the provision that after the member's death it shall continue during the life of and shall be paid to such person as the member shall have nominated by written designation duly executed and filed with the board at the time of retirement.

b-2. "OPTION 3". A reduced retirement allowance payable during the member's life, with the provision that after the member's death an allowance of 1/2 of the member's reduced allowance shall be continued during the life of and shall be paid to such

### 36-05-7-b-3 Employees' Retirement System

person as the member shall have nominated by written designation duly executed and filed with the board at the time of retirement. The retirement allowance because of the election of an option which provides that 1/2 of the member's allowance shall be paid to the member's spouse, shall be limited, however, to a reduction which is not in excess of 5% of the retirement allowance which the member would have received had the member elected no option; it being intended that the election of this option when the beneficiary is the member's spouse shall not reduce the member's maximum retirement allowance in excess of 5% thereof. If a member who has elected a spouse survivorship option under this paragraph receives an adjustment under sub. 1-h-4 prior to death, the 50% survivorship allowance shall be computed based on the member's service retirement allowance including adjustments at the date of death.

b-3. "OPTION 4." A reduced retirement allowance payable during the member's life, with some other benefit payable to a designated beneficiary or for the benefit of a designated beneficiary after the member's death, provided the succeeding benefits are payable over a period not extending beyond the life of the designated beneficiary or over a period not extending beyond the life expectancy of the designated beneficiary, provided the payment of the succeeding benefits are payable commencing no later than one year after the date of the member's death or in the case of a surviving spouse designated beneficiary, no later than one year after the date of the member's death or no later than the date upon which the spouse is 70-1/2 years of age, whichever shall come later, and provided the benefit shall be approved by the board.

b-4. Protective Survivorship Option.

**Note to s. 36-05-7-b-4. Any Provision of ch. 36 notwithstanding, general city employees in active service who have selected their spouse as their designated beneficiary under a protective survivorship option under s. 36-05-7-b-4 prior to January 19, 2001 shall be permitted to reselect a retirement option during the 90-day period preceding the effective date of their retirement. (Part 46-1, File #991585, April 11, 2000; eff. Jan. 19, 2001.)**

b-4-a. Any member eligible for normal service retirement under this act, except policemen who attain eligibility for normal service retirement under sub. 1-f on or after

January 1, 1985, and firemen who attain eligibility for normal service retirement under sub. 1-f on or after March 1, 1985, may elect a protective survivorship option without a reduction because of such election by selecting an option under this subdivision in the manner hereinafter set forth, which option shall then become effective at his or her death, with the same force and effect as if such member had retired under such option immediately prior to his or her death. Any policeman who attains 25 years of creditable service as a policeman under this act on or after January 1, 1985, and any fireman who attains 25 years of creditable service as a fireman under this act on or after March 1, 1985, may elect a protective survivorship option without a reduction because of such election by selecting an option under this subdivision in the manner hereinafter set forth, which option shall then become effective at or after his or her death with the same force and effect as if such member had retired under such option immediately prior to his or her death, provided sub. 5 is inapplicable. Such option shall operate as do other options selected under the provisions of this section. A member in order to be eligible for the election of such option based on eligibility for normal service retirement shall be required to make his or her election in writing on a form prescribed by the board within 6 months prior to the date when he or she shall first become eligible for normal service retirement. A policeman or fireman eligible for election of such option based on 25 years of creditable service shall be required to make his or her election within 6 months of attaining 25 years of creditable service, except that a policeman who is in the Milwaukee Police Association bargaining unit on or after November 3, 1988, and a policeman not in the Milwaukee Police Association bargaining unit who was in the Milwaukee Police Association bargaining unit between November 3, 1988, and December 31, 1988, a policeman who is not in the Milwaukee Police Association bargaining unit on or after July 25, 1989, and a fireman in active service on or after January 16, 1990, shall be permitted to make an election within 6 months of marriage

or remarriage subsequent to attaining 25 years of creditable service. Thereafter he or she shall be barred from making such election. In the event a fireman or policeman with 25 years of creditable service as a fireman or policeman has a spouse at the time he or she becomes eligible to make an election under this subd., such fireman or policeman shall be deemed to have elected the option specified in subd. 1; namely, "option 2", the option which provides a 100% survivor option to the member's beneficiary and to have named his or her spouse as the designated survivor, unless, at the time he or she becomes eligible to make an election under this subd., he or she elects a different option within the time allotted. Except for firemen or policemen, the election shall be irrevocable and shall continue after retirement. If a fireman or policeman marries, is divorced or retires, the fireman or policeman shall be permitted to reselect an option under subd. 7-b. The election shall be irrevocable and shall continue after retirement. The option shall be automatically revoked in the event the joint annuitant predeceases the member before retirement; or if the member is legally divorced from the joint annuitant before retirement when such election shall be canceled upon written notice from the member to the board requesting such cancellation. The benefit payable shall be the actuarial equivalent of the benefits otherwise payable. For firemen and policemen eligible for the option provided for by this subdivision based on attaining the minimum service retirement age, the option shall be effective 30 days after written election thereof is made by the member. For firemen and policemen eligible for the option provided in this subdivision based on attaining 25 years of creditable service, the option shall be effective on the date of death in the event the member has attained the minimum service retirement age or on the date the member would have attained the minimum service retirement age in the event the member has not attained such age on the date of death. The election of a survivorship option heretofore made shall be deemed to have been made under the provisions of this subdivision as amended.

b-4-b. The election of a protective survivorship option permitted and provided for in this subdivision and made either prior to or after October 14, 1989, wherein such member

elected "Option 3", namely, the option which provides a 50% survivorship allowance to the member's spouse, automatically includes such member's right to and results in such member's maximum retirement allowance being reduced only by an amount which is not in excess of 5% of the maximum retirement allowance to which such member would be entitled except for the member's election of "Option 3"; the 5% limitation of the reduction of the member's retirement allowance referred to herein is that limitation stated in subd. 2.

c. Notwithstanding any other provision of sub. 7, on or after January 1, 1989, a member may not elect an option in which the present value of the allowance payable to the member over the member's life expectancy does not exceed the present value of the succeeding benefit. Effective for members electing an option on or after January 1, 1995, this par. does not apply when the member elects an option with the member's spouse as the designated survivor. (*Sub. 7-a am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Sub. 7-b-6-a am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Sub. 7-a am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Sub. 7-b-6-a am. Ch. Ord. 554, File #85-845, Oct. 1, 1985, eff. Dec. 15, 1985. Sub. 7-b-6-a am. File #881667, Dec. 20, 1988; eff. March 13, 1989. Sub. 7 rc. File #890633, July 25, 1989; eff. Oct. 14, 1989. Sub. 7-b-4-a am. File #891171, Sept. 28, 1989; eff. Dec. 17, 1989. Sub. 7-b-4-a am. File #891650, Jan. 16, 1990; eff. April 4, 1990. Sub. 7-b-4-b (Note), File #901684, July 28, 1992; eff. Sept. 30, 1992. Sub. 7-b-2 am. File #921978, April 8, 1993; eff. June 16, 1993. Sub. 7-b-4-a am. File #941981, April 25, 1995; eff. July 12, 1995. Sub. 7-b-4-a am. File #950597, Sept. 27, 1995; eff. Dec. 13, 1995. Sub. 7-c am. File #960457, July 12, 1996; eff. Sept. 30, 1996.*)

d. Disposition of Final Pro-Rated Payment. d-1. In this paragraph, "final pro-rated payment" means that portion of a benefit that has been earned by a beneficiary prior to the death of a beneficiary but had not been paid to the beneficiary prior to his or her death.

d-2. Upon the death of a member who has not elected any survivorship option under this subsection, the member's final pro-rated payment shall be paid to the member's

### 36-05-8 Employees' Retirement System

estate, unless the member has named a person or trust to receive the member's final pro-rated payment on a form approved by the board for that purpose.

d-3. Upon the death of a member who has elected any survivorship option under this subsection, the member's final pro-rated payment shall be paid to the member's survivor. If the survivor predeceases the member, the member may name a person or trust to receive the member's final pro-rated payment on a form approved by the board for that purpose.

d-4. Upon the death of a survivor, the survivor's final pro-rated payment shall be paid to the survivor's estate, unless the survivor has named a person or trust to receive the survivor's final pro-rated payment on a form approved by the board for that purpose. (*Sub. d cr. File #060064, May 31, 2006; eff. Aug. 16, 2006.*)

#### **8. SURVIVORSHIP BENEFITS.**

a. Firemen or Policemen, Death While in Active Service. a-1. In addition to other benefits provided for in the employees' retirement act, a fireman or policeman in active service prior to January 1, 2000, who is not a participant in the combined fund and who shall die prior to the time of his retirement from active service and who has had at least 30 days of creditable service prior to the time of his death, shall be covered by the provisions of this subsection. In such instance, the widow and other dependents hereinafter specified of such member, meeting the conditions herein set forth, shall be entitled to survivorship benefits which shall commence immediately upon the death of such member. (*Par. a-1 am. File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

a-2. Any fireman or policeman who is not a participant in the combined fund and who retires after July 1, 1967, because of an approved disability shall be eligible to participate in survivorship benefits provided for herein if such member continues to make his same contribution as required by this section. It is intended that if such member retired under an approved disability and because thereof is no longer a member, he shall nevertheless be considered as a member for the purposes of the benefits provided for under the survivorship provisions until he shall reach the minimum service retirement age established by this chapter. (*Par. a-2 am. File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

b. Dependents. The survivorship benefits granted hereunder shall be as follows:

b-1. If such member shall die leaving surviving a widow or widower without children, such widow or widower shall be entitled to receive as a survivorship benefit the sum of \$115 per month, which shall commence at the time that such widow or widower shall reach the age of 62 except that the widow or widower of a member employed as a policeman on or after November 3, 1974 or employed as a fireman on or after April 6, 1975 shall be entitled to receive the aforementioned survivorship benefit commencing at the time such widow or widower shall reach the age of 57. (*Subd. 1 am. File #892368, April 9, 1990; eff. June 26, 1990.*)

b-2. If such member shall leave surviving a widow or widower with one or more children of the member, and such children are under the age of 18 years, the widow or widower shall receive for herself or himself and for such children a survivorship benefit in a sum not to exceed \$230 per month, which shall be payable to her or him as long as such children are under the age of 18 years. In the event all of her or his children reach the age of 18 years or over, the survivorship benefits herein provided for shall cease until or unless the widow or widower shall have reached the age of 62 years, except that the widow or widower of such a member employed as a policeman on or after November 3, 1974, or employed as a fireman on or after April 6, 1975, shall be entitled to receive the aforementioned survivorship benefit commencing at the time such widow or widower shall reach the age of 57. (*Subd. 2 am. File #892368, April 9, 1990; eff. June 26, 1990.*)

b-3. If such member shall die without leaving a widow or widower, but he or she shall have a child under the age of 18 years, such child shall be entitled to receive a survivorship benefit in the amount of \$115 per month as long as said child shall be under the age of 18 years. (*Subd. 3 am. File #892368, April 9, 1990; eff. June 26, 1990.*)

b-4. If such member shall die and leave surviving him 2 or more children under the age of 18 years and no widow or widower, then as long as said children shall be under the age of 18 years they shall receive \$230 per month as survivorship benefits. However, in the event that such children reach the age of 18



years and only one child is under such age, then the remaining child shall be entitled to receive as survivorship benefits the sum of \$115 per month, which, however, shall terminate upon such child reaching the age of 18 years. The board shall have the right to determine the allocation of the amounts herein paid to children under the age of 18 years if they are part of the same family unit and if in the board's judgement an equitable allocation of survivorship benefits payable is both justifiable and practical. The provisions of subds. 2, 3 and 4 shall not apply to children who are adopted following the death of such member. (*Subd. 4 am. File #892368, April 9, 1990; eff. June 26, 1990.*)

b-5. In order for a widow or widower to be eligible for survivorship benefits herein provided, such widow or widower must have been married to a member covered by the provisions of this subsection for a period of at least 30 days prior to the date of death; a child of such member in order to be entitled to the benefits hereunder must be unmarried or under a disability which commenced prior to the attainment of age 18. (*Subd. 5 am. File #892368, April 9, 1990; eff. June 26, 1990.*)

b-6. In the event such member shall die and shall not leave surviving either a widow or widower or child or children eligible to the survivorship benefits, then in such event a dependent father or mother shall be entitled to receive as a survivorship benefit the amount of \$115 per month which shall be payable to each of the dependent parents (father and/or mother, as the case may be); provided, however, such surviving dependent shall establish to the satisfaction of the board that the dependency actually existed during the life of such member and that such surviving dependent received at least 1/2 of his or her support from such deceased member. In order to be eligible hereunder for survivorship benefits, such dependent parent must at the time of receiving such survivorship allowance have reached the age of 65 years. The board may request such additional proof from time to time as it may consider appropriate in order to establish that the dependency continues. (*Subd. 6 am. File #892368, April 9, 1990; eff. June 26, 1990.*)

b-7. In the event a widow or widower of such member entitled to receive survivorship benefits hereunder shall remarry, then whatever benefits she or he is entitled to shall immediately cease. However, the benefits

which are paid on behalf of any child under the age of 18 years shall continue as long as such minor children shall not have reached the age of 18 years. The board may require proof in such form as it determines applicable to demonstrate that such widow or widower has not remarried. (*Subd. 7 am. File #892368, April 9, 1990; eff. June 26, 1990.*)

b-9. In the instance of a widow or widower, or in the instance of minor children, being entitled to receive survivorship benefits hereunder, such survivorship benefits shall be paid in accordance with the provisions of this subsection. The death benefit provided for in sub. 10 shall be paid in addition to any survivorship benefits to which such persons are eligible. The provisions of this subdivision shall be deemed applicable to deaths having occurred among firemen and policemen who elected to come under the provisions of ch. ord. 238, File #57-3152, passed Mar. 18, 1958. (*Subd. 9 am. Ch. Ord. 467, File #78-825, Oct. 3, 1978.*)

b-10. It is intended that the increased benefits of \$230 per month or \$115 per month herein provided for are being granted because there is no added cost, but if the experience is adverse the benefits are to be reduced so as not to increase costs. (*Subd. 10 rc. Ch. Ord. 379, File #69-2460-f, Feb. 8, 1972.*)

b-11. The increase in benefits granted through amendment to this subsection is predicated upon the condition that if such increased benefits at any time hereafter make it necessary to provide additional funds in order that the survivorship benefits may be paid, then the members covered by this section shall be required to pay such additional contributions as may be determined to be necessary by the actuary, and the city shall match such increased contributions. Whenever the actuary certifies that increased contributions are required by both the members and the city, such contributions shall become effective immediately following the actuarial certification. (*am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

b-12. For beneficiaries of policemen whose date of death occurs on or after October 5, 1973, and for beneficiaries of firemen whose date of death occurs on or after July 28, 1974, survivorship benefits payable in the amount of \$115 per month shall be increased to \$140 per month and payable in the amount of \$230 per month shall be

### 36-05-8-c Employees' Retirement System

increased to \$280 per month under the terms and conditions set forth in subd. 11. For beneficiaries of firemen whose date of death occurs on or after March 1, 1979, survivorship benefits payable in the amount of \$140 per month shall be increased to \$175 per month and payable in the amount of \$280 per month shall be increased to \$350 per month under the terms and conditions set forth in subd. 11. For beneficiaries of firemen whose date of death occurs on or after March 1, 1981, survivorship benefits payable in the amount of \$175 per month shall be increased to \$200 per month, and payable in the amount of \$350 per month shall be increased to \$400 per month under the terms and conditions set forth in subd. 11. For beneficiaries of policemen whose date of death occurs on or after September 29, 1981, survivorship benefits payable in the amount of \$140 per month shall be increased to \$200 per month and payable in the amount of \$280 per month shall be increased to \$400 per month under the terms and conditions set forth in subd. 11. For beneficiaries of firemen whose date of death occurs on or after March 1, 1984, and policemen whose date of death occurs on or after January 1, 1985, survivorship benefits payable in the amount of \$200 per month shall be increased to \$300 per month, and payable in the amount of \$400 per month shall be increased to \$600 per month under the terms and conditions set forth in subd. 10. Effective with the installment next following January 1, 2000 for beneficiaries who began receiving survivorship benefits before January 1, 2000 or who are eligible to receive survivorship benefits in the future due to a death occurring prior to January 1 2000, and who participate in the combined fund, survivorship benefits shall be increased to \$300 per month for widows or widowers age 57 without children dependent parents and an eligible single child (no widow or widower) and \$600 per month (for widows or widowers with eligible children and 2 eligible children, no widow or widower). (*Subd. 12 am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Subd. 12 am. File #991585, April 18, 2000; eff. Jan. 19, 2001. Subd. 12 am. File # 020342, June 25, 2002; eff. Sept. 11, 2002.*)

[Note: Positions in the fire department which subd. 12 applies to can be found in Parts 3 to 5 of Ch. Ord. 539, File #83-2362-a, passed July 27, 1984.]

b-13. Any other provision of this subsection notwithstanding, survivorship benefits shall not be paid to beneficiaries of firemen or policemen who participate in the combined fund and die on or after January 1, 2000. (*Subd. 13 File #991585, April , 18, 2000; eff. Jan. 19, 2001.*)

c. Payments. The payments of all benefits to any members or their beneficiaries entitled to such payments under this subsection and the maintenance of the reserves required therefore are specifically exempt from the provisions of s. 36-13-4 and the benefit contract contained in s. 36-13-2, and the conditions applicable to such survivorship benefits may be modified. In the event that social security coverage is ultimately provided to firemen and policemen under federal enactment, then the provisions of this subsection as to survivorship benefits shall thereafter be without force and effect. (*am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

d. Firemen's and Policemen's Survivorship Fund. There is created a fund known as the firemen and policemen's survivorship fund. Into such fund there shall be paid by a member who is a fireman or policeman covered by this act 0.87% of his or her annual salary, limited, however, to the sum of \$6,000 for the purpose of computing the member's contribution. The city shall contribute an equal sum into such fund. The proceeds of such fund shall be used solely and exclusively for paying survivorship benefits herein provided for. All contributions made by each employe to the firemen and policemen's survivorship fund shall remain in such fund and shall not be returned to such member in the event of separation from the city's service. In the event that social security is provided to firemen and policemen covered by this act, then the balances in such fund over and above any and all liabilities created or existing shall be used for the payment of social security taxes of the members who may thereafter participate in such a plan. Effective January 1, 2000, no contributions shall be required on behalf of active or retired firemen and policemen who are members of the combined fund and any amounts contributed by members of the combined fund after January 1, 2000 shall be set aside and returned. (*Par. d am. Ch. Ord. 337, File #67-3079, Feb. 20, 1968. Par. d am File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

e. Survivorship Rates. Survivorship benefits which result because of a death of a member covered by the provisions of this subsection shall be paid for at the following rate:

e-1. Survivorship benefits of \$150 per month for a family, or \$75 per month for one person are applicable with respect to the death of a member occurring from and after May 27, 1958 to April 13, 1963.

e-2. Benefits of \$175 per month for a family, or \$87.50 per month for one person are applicable with respect to the death of any member occurring from and after April 14, 1963, to December 23, 1966.

e-3. Benefits of \$200 per month for a family or \$100 per month for one person are applicable with respect to the death of a member occurring from and after December 24, 1966 and shall be applicable to December 31, 1970. Benefits of \$230 per month for a family or \$115 per month for one person are applicable with respect to the death of a member occurring from December 31, 1970 and thereafter. (*Par. e rc. Ch. Ord. 379, File #69-2460-f, Feb. 8, 1972. Par. e-3 am. Ch. Ord. 402, File #69-2460-2k, July 24, 1973.*)

f. Entrants After May 27, 1958. All firemen and policemen who enter into city service after May 27, 1958, shall be covered under this subsection as a condition of employment.

g. Withdrawal. No member shall be permitted to withdraw from coverage under the survivorship provisions of this subsection while he is a member of the fire or police departments and is covered by the employees' retirement act. (*am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

j. Board to Adopt Rules. The board in consultation with the legal advisor for the employees' retirement system is authorized to adopt such rules and regulations as may be required in order to effectively carry out this subsection and a liberal construction shall be accorded such provisions in order to carry out the purposes and intent of this subsection. (*am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

**9. BASIS OF COMPUTATION OF DISABILITY AND SEPARATION BENEFITS.** Any ordinary or duty disability retirement allowance, or separation benefits shall be determined in the manner set forth in this act but effect shall

be given to the applicable provisions of charter ord. 344. (*Sub. 9 cr. Ch. Ord. 350, File #68-2747, April 15, 1969.*)

**10. ORDINARY DEATH BENEFIT.**

a. Beneficiary. Upon the receipt of proper proofs of death of a member in active service which is not the result of an accident in the actual performance of duty as defined in sub. 5, his or her accumulated contributions shall be paid to such person, or such trustee, if any, as he or she has nominated by written designation duly executed and filed with the board prior to his or her death, otherwise to his or her estate, and if such member has completed one or more years of creditable service there shall be paid in addition a lump sum benefit of 1/2 the final average salary of such deceased member. Such person designated by the member may elect to receive the amount payable as follows:

a-1. A single lump sum payment; or

a-2. Monthly payments in equal installments until the principal amount and interest have been exhausted; or

a-3. An allowance payable in equal monthly installments, the amount of such allowance to be the actuarial equivalent of the benefits otherwise payable at the time of the member's death on the basis of the age of the beneficiary at that time; provided that the monthly payments be no less than \$25 per month.

b. Death of Beneficiary. Should a beneficiary who elected payments under par. a-2 or 3 die before receiving allowance payments equal in total to the lump sum amount otherwise payable under par. a-1, the balance, if any, shall be paid to such person whom the beneficiary shall nominate by written designation duly acknowledged and filed with the board.

c. Death While on Leave. Any member who dies while on a leave of absence which was granted or extended for a period of more than 3 months and which leave of absence was taken for any reason other than sickness, military service, lay-off between seasons, lack of work, lack of funds, or for educational purposes, the leave for which is not more than one year, shall not be considered in active service and no ordinary death benefit shall be payable to his beneficiary or to his estate.

### 36-05-11 Employees' Retirement System

d. Death Prior to Retirement. In the event a policeman or general city employee who applies for an ordinary disability retirement allowance under sub. 2 or a duty disability retirement allowance under sub. 3 on or after January 1, 1985, or a fireman who applies for ordinary disability retirement allowance under sub. 2 or a duty disability retirement allowance under sub. 3 on or after March 1, 1985, dies prior to retirement with benefits payable to a surviving spouse or other beneficiary under sub. 2-d or sub. 3-e, the member shall not be considered in active service, and no ordinary death benefits shall be payable to his or her beneficiary or to his or her estate. (*Sub. 4 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972. Sub. 4 rn. to sub. 10, Ch. Ord. 417, File #74-365, Feb. 11, 1975. Sub. 10-b am. Ch. Ord. 467, File #78-825, Oct. 3, 1978 Sub. 10-d cr. Cr. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985. Sub. 10-a-0 am. File #020474, July 16, 2002; eff. Oct. 1, 2002.*)

11. LUMP SUM BONUS. a. The following persons shall be eligible for a lump sum bonus if they participate in the combined fund: a member in active service as of January 1, 2000; a spouse survivor (under a protective survivorship option) of a member in active service as of January 1, 2000 if the member dies prior to retirement; an accidental death surviving spouse beneficiary of a member in active service as of January 1, 2000 if the member dies prior to retirement; a retired member, spouse survivor or accidental death surviving spouse beneficiary who is receiving a retirement or accidental death benefit allowance as of January 1, 2000; or a member separated from service prior to January 1, 2000 who is eligible for a deferred retirement allowance commencing on or after January 1, 2000. The bonus shall be paid to active members and members eligible for deferred retirement allowance at the time of commencement of their retirement allowance and to spouse survivors and accidental death surviving spouse beneficiaries of members in active service as of January 1, 2000 at the time of commencement of their spouse survivor allowance or accidental death benefit allowance. The bonus for those receiving a retirement or survivor allowance or accidental death benefit allowance as of January 1, 2000, shall be paid as soon as administratively feasible after January 1, 2000, and shall be 5% of the last full monthly installment payable prior

to January 1, 2000, or if no full monthly installment was payable prior to January 1, 2000, the first full monthly installment payable immediately following January 1, 2000, multiplied by 12 times the appropriate lump sum factor. The bonus for members in active service as of January 1, 2000, members separated from service prior to January 1, 2000, who are eligible for a deferred retirement allowance commencing on or after January 1, 2000, spouse survivors of members in active service as of January 1, 2000 and accidental death beneficiaries of members in active service as of January 1, 2000, shall be 5% of the accrued annual retirement benefit (without a reduction on account of an election under sub. 7, or adjustment for cost of living), 5% of the accrued annual spouse survivor allowance (without an adjustment for cost of living) or 5% of the accrued annual accidental death benefit allowance (without adjustment for cost of living) multiplied by the appropriate lump sum factor. The appropriate lump sum factors are as follows:

Attained		Attained		Attained	
Age	Factor	Age	Factor	Age	Factor
15	12.1075	44	11.3842	73	7.5404
16	12.0994	45	11.3235	74	7.3474
17	12.0906	46	11.2586	75	7.1531
18	12.0810	47	11.1891	76	6.9565
19	12.0706	48	11.1151	77	6.7563
20	12.0593	49	11.0365	78	6.5512
21	12.0481	50	10.9531	79	6.3413
22	12.0364	51	10.8647	80	6.1274
23	12.0242	52	10.7711	81	5.9115
24	12.0116	53	10.6720	82	5.6961
25	11.9984	54	10.5674	83	5.4845
26	11.9847	55	10.4570	84	5.2783
27	11.9692	56	10.3406	85	5.0788
28	11.9516	57	10.2182	86	4.8870
29	11.9320	58	10.0896	87	4.7030
30	11.9106	59	9.9551	88	4.5257
31	11.8873	60	9.8147	89	4.3527
32	11.8625	61	9.6685	90	4.1814
33	11.8361	62	9.5166	91	4.0088
34	11.8077	63	9.3591	92	3.8326
35	11.7774	64	9.1961	93	3.6518
36	11.7448	65	9.0280	94	3.4698
37	11.7099	66	8.8553	95	3.2898
38	11.6724	67	8.6779	96	3.1157
39	11.6322	68	8.4955	97	2.9496
40	11.5891	69	8.3084	98	2.7901
41	11.5430	70	8.1178	99	2.6289
42	11.4937	71	7.9253	100	2.4623
43	11.4408	72	7.7327		

b. Firemen and Policemen Survivorship Fund Dissolution Bonus. The following persons

shall be eligible for an additional lump sum bonus if they participate in the combined fund: a fireman in active service as of January 1, 2000; a fireman retired on a disability retirement allowance as of January 1, 2000 who is an active member in good standing of the firemen and policemen's survivorship fund as of January 1, 2000; a spouse survivor (under a protective survivorship option) of a fireman in active service as of January 1, 2000 if the member dies prior to retirement; or an accidental death surviving spouse beneficiary of a fireman or policeman in active service as of January 1, 2000 if the member dies prior to retirement. A policeman in active service as of January 1, 2000 who is a participant in the combined fund, a policeman retired on a disability retirement allowance as of January 1, 2000 who is a participant in the combined fund or a spouse survivor (under a protective survivorship option) of a policeman in active service as of January 1, 2000 who is a participant in the combined fund (if the member dies prior to retirement) shall be eligible for an additional lump sum bonus if the policeman is an active member in good standing of the firemen and policemen's survivorship fund as of January 1, 2000 and is ineligible for additional service credit under s. 36-04-4-b. The bonus for members other than members who either are retired on a disability allowance as of January 1, 2000 or retire on a disability allowance thereafter shall be paid at the time of commencement of their service retirement allowance, spouse survivor allowance or accidental death benefit allowance. The bonus for members who retire before or after January 1, 2000 on a disability retirement allowance shall be payable at the time of the installment next following attainment of their conversion age. If a member is retired on a disability retirement allowance and is ineligible for conversion to a service retirement allowance, the bonus shall be payable in the installment next following the attainment of age 63 or January 1, 2000 whichever shall come last. The bonus for active members shall be 8.6% of the accrued annual service retirement allowance (without reduction on account of an election under sub. 7, or

adjustment for cost of living) multiplied by the appropriate lump sum factor as set forth in par. a. The bonus for spouse survivors (under a protective survivorship option) shall be 8.6% of the accrued annual spouse survivor allowance (without adjustment for cost of living) multiplied by the appropriate lump sum factor as set forth in par. a. The bonus for an accidental death surviving spouse beneficiary shall be 8.6% of the accrued annual accidental death benefit allowance (without adjustment for cost of living) multiplied by the appropriate lump sum factor as set forth in par. a. The bonus for retired members on a disability retirement allowance who are eligible to convert to a service retirement allowance shall be 8.6% of their accrued service retirement allowance (without adjustment for cost of living) at a conversion age multiplied by the appropriate factor as set forth in par. a. The bonus for retired members on a disability retirement allowance who are ineligible for conversion shall be 8.6% of the annual service retirement allowance at age 63 (without adjustment for cost of living) multiplied by the appropriate lump sum factor as set forth in par. a. If a member retired on a disability retirement allowance who is ineligible for conversion to a service retirement allowance is older than age 63 as of January 1, 2000 the bonus shall be 8.6% of the member's disability retirement allowance payable for the year immediately prior to January 1, 2000 multiplied by the appropriate factor as set forth in par. a. This par. shall not apply to a retirement allowance authorized by s. 36-05-6-b-2, 6-b-3, 6-c or 6-d-2.

c. Military Service Credit Bonus. Each member who served and was honorably discharged from the military service prior to first being enrolled in the retirement system and who retired on a service retirement allowance prior to January 1, 2000 shall be eligible for a military service credit bonus if he or she is a participant in the combined fund and is ineligible for military service credit under s. 36-04-1-c. The bonus shall be computed by multiplying the sum of \$1,000,000 by a fraction, the numerator of which is the member's eligible active military service credit and the denominator of which is the total eligible active military service credit of all

### 36-05-11-d Employees' Retirement System

retirees eligible under this paragraph. Military service shall have the same meaning as under sec. 36-04-1-c. To be eligible for inclusion in the calculation a period of active service must be a period of not less than 90 consecutive days spent in active military service. One year of military service shall be credited for 3 years of eligible military service, however, the maximum military service credit taken into account for purposes of calculating this bonus shall not exceed one year. The maximum military service credit bonus shall not exceed the amount of the full monthly installment payable for the month immediately prior to January 1, 2000 or if no monthly installment was payable prior to January 1, 2000, the first full monthly installment payable after January 1, 2000. The retirement system shall determine the appropriate military documentation for crediting such military service. In order to be eligible for a military service credit bonus, each retired member must apply to the retirement system no later than 6 months following a final and binding determination by a court of competent jurisdiction that this ordinance is legal and enforceable [reference is to charter ordinance file number 000792, passed Oct. 10, 2000, eff. Jan. 19, 2001].

d. Retiree Special Bonus. Every retiree, spouse survivor and accidental death beneficiary who participates in the combined fund and who is receiving a retirement allowance or accidental death benefit as of January 1, 2000 shall be eligible to receive a lump sum payment. The bonus shall be paid as soon as administratively feasible after January 1, 2000 and shall be equal to the full monthly installment payable for the month immediately prior to January 1, 2000, or if no monthly installment was payable prior to January 1, 2000, the first full monthly installment payable after January 1, 2000, multiplied by the following multiplier factor:

Status at Retirement or Death	Year of Retirement or Death	Multiplier
General City	1997-1999	2
	1996	3
	1995	4
	1994	5
	1993	6½
	1992 and prior	8
Firemen and Policemen	all years	8

If a retiree or spouse survivor eligible to receive a lump sum payment under this par. has received an overpayment of catch-up or COLA payable under s. 36-05-1-i in 1996 or 1997, then, in lieu of the repayment of such overpayment through an adjustment of future benefit payments prescribed in this section, such retiree or spouse survivor shall repay all or a portion of such overpayment by offsetting dollar for dollar the lump sum payable under this section by the amount of the overpayment or 3 times the monthly installment identified in this section whichever is less. If a retiree who died prior to January 1, 2000, elected a spouse survivor who is eligible to receive a lump sum payable under this section the overpayment to such retiree in an amount not to exceed the lesser of the amount of overpayment to such retiree or 3 monthly installment identified in this section (excluding overpayments) payable to the retiree immediately prior to his or her death, shall be set off dollar for dollar against the lump sum payable to the spouse survivor under this section. If the amount of the overpayment exceeds the amount of the dollar for dollar set off applied under this section the excess of the amount of the overpayment over the amount set off shall become an obligation of, and paid from, the combined fund. If a retiree died prior to January 1, 2000, and either did not elect a spouse survivor who is eligible to receive a lump sum payable under this section or elected a spouse survivor who predeceased the retiree the amount of the overpayment to such retiree shall become an obligation of, and paid from, the combined fund. Notwithstanding the foregoing, the amount set off against the spouse survivor on account of overpayments received by the deceased member, the spouse survivor, or both, shall not exceed 3 times the

full monthly installment payable to the spouse survivor for the month immediately prior to January 1, 2000 or if no full monthly installment was payable for the month immediately prior to January 1, 2000, the first full monthly installment payable after January 1, 2000.

e. Designated Beneficiary. A participant in the combined fund eligible to receive a lump sum bonus payment under this subsection shall be permitted to elect a designated beneficiary to receive such payment in lieu of the participant's estate, if the participant dies prior to the payment being made. (*Sub. 11 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001. Sub. 11 am. File #00484, July 11, 2000; eff. Jan. 19, 2001. Sub. 11-b am. File #000792, Oct. 10, 2000; eff. Jan. 19, 2001. Sub. 11-c am. File # 00792, Oct. 10, 2000; eff. Jan. 19, 2001. Sub. 11-d am. File #000792, Oct. 10, 2000; eff. Jan. 19, 2001. Sub 11-e cr. File # 020891, Oct. 15, 2002; eff. Jan 2, 2003.*)

### **36-055. Election of Survivorship Benefits.**

1. FIREMEN TO MAKE WRITTEN REQUEST. A member who is a fireman as defined in s. 36-02 and who was employed as a firefighter, motor pump operator, fire lieutenant or fire captain on July 28, 1974, but was not eligible for survivorship benefits under s. 36-05-8, as amended, may within 30 days following July 21, 1975 but not later than such date, make and execute an irrevocable written election to be covered by the survivorship benefits provided for under such section, said election shall be in writing on a form prescribed for such purposes by the annuity and pension board and be signed by the employee.

2. CONTRIBUTION. Upon receipt of the properly executed election for eligibility for survivorship benefits under s. 36-05-08 by the board within the time prescribed and upon the employee and the city each contributing \$530.70 to the firemen and policemen's survivorship fund, the employee eligible to make such election shall be entitled to survivorship benefits under s. 36-05-8, as amended, in the same amounts and under the same conditions as firemen currently eligible for such benefits. The \$530.70 payment herein required may be paid in not more than 52 installments to be determined by the annuity and pension board prior to filing of application for eligibility hereunder.

3. SURVIVOR. The survivor of a member of the employees' retirement system who was a fireman as defined in s. 36-02 employed by the city as a firefighter, motor pump operator, fire lieutenant or fire captain on July 28, 1974, and who died between July 28, 1974, and the effective date of this section **[July 21, 1975]** but not later than such date, without being eligible for survivorship benefits under s. 36-05-8, as amended, may make a written election within 30 days following the effective date of this section to receive the survivorship benefits provided for by s. 36-05-8, as amended. Such benefits shall be payable retroactively to the date of death in the same amount and under the same conditions as for survivors of firemen currently eligible for such benefits upon the city and the survivor each contributing the sum of \$504.43 to the firemen and policemen's survivorship fund. Said election shall be in writing on a form prescribed for such purpose by the annuity and pension board and be signed by the survivor. The \$504.43 payment herein required may be paid in not more than 12 monthly installments to be determined by the annuity and pension board, within 30 days following July 21, 1975. (*Section 36-055 cr. Ch. Ord. 419, File #75-68, May 6, 1975; eff. July 21, 1975.*)

**36-06. Coordinated Plan. 1. ESTABLISHED.** A coordinated plan is established within the present retirement system as of January 1, 1958, which shall be governed by the provisions of the employees' retirement act, except as hereinafter provided, and which shall provide for participation in old age, survivors, disability and health insurance benefits derived under the social security act. (*Sub. 1 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

2. MEMBERSHIP. Membership in the coordinated plan shall include those members of the employees' retirement system who elect such coverage and are covered by the provisions of the social security act. Such coordinated plan members shall consist of all future employees who shall enter upon membership of the retirement system on and after January 1, 1958, the effective date of the social security agreement extending coverage under the social security act to members of the retirement system, except employees in positions to which such coverage is not extended. (*Sub. 2 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

### 36-06-4 Employees' Retirement System

**4. CONTRACTUAL RIGHTS MAINTAINED.** The contractual rights which are vested and provided for under the employees' retirement act, including the provision therein with respect to deferred pay, shall in all respects apply and be in effect with respect to the coordinated plan. None of such rights shall be disturbed or impaired, except that contributions required of the employee and employer to such coordinated plan may be adjusted in accordance with the provisions of the coordinated plan, and a deduction in benefits or allowances granted under the employees' retirement act subsequent to the effective date of the coordinated plan may be made in order to carry out the provisions of such coordinated plan. The benefits or allowances under the coordinated plan may be subsequently amended only in the particulars required because of amendments to the social security act, it being expressly understood that a participating employee in such coordinated plan shall in no manner whatsoever, except as provided in this subsection at the time of its enactment, have his rights, benefits or privileges cancelled, impaired or abrogated; and any employee eligible to participate in such coordinated plan shall have a vested right upon a contractual basis to obtain the rights, benefits and privileges which are accorded and granted by the employees' retirement act under the coordinated plan. Such rights, benefits and privileges herein referred to and existing upon a contractual and vested basis are predicated upon a consideration for services rendered and to be rendered by such employee and deferred pay as provided in s. 36-13-4; and as a consideration of the employment, such benefits, rights and privileges shall neither be abrogated nor impaired, except only as is required by virtue of amendments to the social security act which affect the provisions of the coordinated plan. Contractual rights hereunder shall be applicable also to any member who entered the system after January 1, 1958. (*Sub. 4 am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

**5. PROVISIONS OF COORDINATED PLAN DETAILED.** a. Benefits. The benefits of the coordinated plan shall be those set forth in s. 36-05 with the following exceptions:

a-1. Optional benefits. Any optional benefit payable prior to the payment of a social security benefit shall be based on the actuarial

equivalent of the retirement allowance otherwise payable, taking into account the reduction in the retirement allowance after the social security benefit becomes payable.

a-2. Adjustment of retirement allowances for social security benefits. Until the effective date of any service retirement, any coordinated plan member may elect to convert the allowance otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that, with his social security benefit he will receive, so far as possible, approximately the same amount per year before and after the commencement of such benefit. (*am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

b. Contributions. b-1. Coordinated plan members' contributions. The contributions required of the coordinated plan member shall be those set forth in s. 36-08-7. This section shall be operative with the first pay period for 1969. (*Subd. 1 am. Ch. Ord. 382 File #71-2300, Mar. 21, 1972.*)

b-2. Employer's contribution under coordinated plan. The contributions required by the employer under the coordinated plan may be adjusted as is required under s. 36-08-6. (*Subd. 2 am. Ch. Ord. 382 File #71-2300, Mar. 21, 1972.*)

b-3. Retroactive taxes under federal insurance contributions act. The proper city officers and the annuity and pension board are authorized to pay from the annuity savings fund an amount equal to the taxes under the federal insurance contributions act payable by a coordinated plan member for the period beginning January 1, 1956, to the date of transfer. Such amount shall be deducted from the amount credited to such member in the annuity savings fund and the execution of the consent agreement as hereinafter provided for shall evidence authority granted by such member for such deduction. (*Subd. 3 am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

**6. CONSENT AGREEMENT.** Members of the employees' retirement system who elect to participate under the coordinated plan shall execute a consent agreement. (*Sub. 6 am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)



7. AUTHORITY TO ACT UNDER COORDINATED PLAN AGREEMENT. The common council may by resolution within the limitation provided for in this subsection authorize the manner and method of making deductions from wages and for making payments and designate the officer or officers of the city who shall be required to make such deductions and payments. (*Sub. 7 am. Ch. Ord. 382 File #71-2300, Mar. 21, 1972.*) 9. LIMITATIONS OF PAYMENT UNDER COORDINATED PLAN. In applying the provisions of this section relating to the coordinated plan, it is expressly provided that no member participating in the coordinated plan and who shall retire during the period from June 29, 1975 to December 28, 1975, shall receive by way of retirement allowances, together with social security benefits, an aggregate sum in excess of 82% of his or her final average salary, and in the event that the amount which such member would receive under the coordinated plan, including social security benefits, paid to him or her, not including social security benefits paid in respect of such member's dependents, exceeds such amount, then the retirement allowance shall be reduced to an amount which, when added to social security benefits as herein set forth, shall not in the aggregate exceed 82% of his or her final average salary. It is expressly provided, however, that additional contributions made by an employee who shall retire after June 29, 1975 under s. 36-08-7-f shall be excluded in determining the 82% limitation provided for herein. It is further expressly provided that no member participating in the coordinated plan and who shall retire from and after December 28, 1975, shall receive by way of retirement allowances, together with social security benefits, an aggregate sum in excess of 85% of his or her final average salary, and in the event that the amount which such member would receive under the coordinated plan, including social security benefits paid to him or her, not including social security benefits paid in respect of such member's dependents, exceeds such amount, then the retirement allowance shall be reduced to an amount which, when added to social security benefits as herein set forth, shall not in the aggregate exceed 85% of his or her final average salary. It is expressly provided, however, that

additional contributions made by an employee who shall retire after December 28, 1975, under s. 36-08-7-f shall be excluded in determining the 85% limitation provided for herein. Commencing with duty disability payments occurring on or after January 1, 1995, in applying the provisions of this subsection the maximum duty disability allowance payable to a member participating in the coordinated plan under s. 36-05-3 together with the member's social security benefit shall be limited to an aggregate sum of 100% of the member's final average salary, provided the disability pension is not fixed. (*Sub. 9 am. Ch. Ord. 423, File #74-675-a, July 15, 1975. Sub. 9 am. File #940937, Oct. 18, 1994; eff. Jan. 3, 1995.*)

10. CONSTRUCTION AND APPLICATION OF COORDINATED PLAN PROVISIONS.

a. The provisions of this section shall be construed and applied in such a manner so that the same shall be consistent with and in conformity to the provisions of the federal laws and regulations relating to Title II of Federal Old Age, Survivors, and Disability and Health Insurance Benefits act, and the effective date referred to shall be deemed to be January 1, 1958 the date when an agreement extending coverage under the social security act to members of the employees' retirement system was executed. (*Par. a am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

c. In construing or applying the provisions of this section referring to the attainment of age 65 for social security benefits or allowances, such age shall apply except, however, that if the social security act is amended to provide for a different age for eligibility for full benefits or allowances, then such age for eligibility for full benefits as provided for in the social security act as amended shall be applicable in applying provisions of the coordinated plan.

d. It is expressly provided that any person who participates in the coordinated plan shall be required as a condition of his participation in such plan to make available to the annuity and pension board of the employees' retirement system such information concerning social security benefits as the board shall deem pertinent. (*Par. d am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

## 36-07--Employees' Retirement System

e. From and after December 31, 1966, there shall be no reduction in nor shall there be any offset to, the retirement allowance of any member of the coordinated plan who retires at any time subsequent to December 31, 1966, because of his receipt or eligibility to receive social security allowances or benefits. As to a member in the coordinated plan, who retires between January 1, 1966, and December 31, 1966, both dates inclusive, and who is eligible to receive or receives social security benefits, there shall be no reduction nor offset in his retirement allowance after December 31, 1966. This amendment has no application whatever to provisions of the employees' retirement act pertaining to the 82% maximum for those members who shall retire during the period from June 29, 1975 to December 28, 1975, and to the 85% maximum for those members who shall retire after December 28, 1975, as set forth in sub. 9. It is the intendment of this subsection that the retirement allowance of any member in the coordinated plan who retires on January 1, 1967, or any time thereafter, shall not be reduced nor shall it be offset in any manner because such member is or becomes eligible to receive or does receive Social Security benefits and that the social security offset hereinbefore provided for in the employees' retirement act is eliminated, further as to those members of the coordinated plan who retire at any time subsequent to December 31, 1965, but prior to January 1, 1967, no offset shall be applied effective January 1, 1967. (*Par. e am. Ch. Ord. 423, File #74-675-d, July 15, 1975.*)

f. Notwithstanding sub. 9, general members in the coordinated plan who retire on or after January 1, 1989, shall not receive a reduction in their service retirement allowance on account of social security benefits. Members in the coordinated plan who retire on or after January 1, 1989, shall not receive by way of a service retirement allowance, exclusive of social security benefits, a sum in excess of 70% of final average salary provided, however, that the application of this limitation shall not operate to diminish that portion of a member's retirement allowance attributable to creditable service earned through December 30, 1988. (*Par. f. cr. File #891171, Sept. 28, 1989; eff. Dec. 17, 1989.*)

**12. BOARD TO CERTIFY NUMBER OF TRANSFERS.** The board shall certify to the director of the public employees social security fund, the number of persons who have qualified to be covered by each modification to be submitted to implement this section. (*Sub. 12 am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

**36-07. Re-examination of Disability Beneficiaries.** **1. PERIODIC MEDICAL EXAMINATIONS.** Once each year during the first 5 years following retirement of any disability beneficiary and once in every 3 year period thereafter, the board may require such beneficiary, if he has not attained the minimum service retirement age, to submit to a medical examination by a physician or physicians of or appointed by the medical council or the board. Should any such beneficiary refuse in any such year or period to undergo at least one such medical examination, his allowance may be discontinued until he consents to the examination; and should the refusal continue for one year, all rights in and to the allowance may be revoked by the board, in which event there shall be refunded to him at the time of the termination of his allowance a lump sum equal in amount to the difference between the amount of his accumulated contributions at the time of his retirement and the sum of the payments actually made to him during his disability retirement that is the actuarial equivalent of his accumulated contributions at retirement. However, the refund herein provided for shall only be payable if such member is eligible therefor under s. 36-05-6. (*Sub. 1 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

**2. ADJUSTMENT OF ALLOWANCE.**

a. In the event the board shall determine, based upon information received by it from the medical council or from other sources, that a disability beneficiary is able to engage in a gainful occupation which pays more than the difference between the current salary for the position held by such person at the time of retirement and the retirement allowance granted to him, in such instance the pension of such person shall be reduced by the amount of such excess earnings. If the earning capacity of such person be later changed, then the amount of his pension may be modified, provided the new pension shall at no time exceed the amount of the pension granted at

the time of his retirement. This provision shall not apply in the instance of a disability beneficiary having attained the age for service retirement.

b. Any person who was a member of the employees' retirement system and who had retired on a disability pension prior to the enactment of par. a, ch. ord. 307 passed July 14, 1964, which was granted under the provisions of this act, shall have his disability pension computed as provided for in s. 36-07-2-a of ch. ord. 338 commencing from and after January 1, 1968. (*Sub. 2 rn. to sub. 2-a, Ch. 338, File #63-2069-c, March 7, 1968. Sub 2-b cr. Ch. Ord. 338, File #63-2069-c, Mar. 7, 1968.*)

**3. MEMBERSHIP RESTORED.** Should any disability beneficiary be restored to active service prior to attaining the minimum service retirement age, or should any disability beneficiary other than a fireman retired on ordinary disability, or a policeman retired on duty disability and appointed to a position in active service pursuant to s. 62.51, Wis. Stats., on or after May 3, 1988, be at any time in active service prior to attaining the minimum service retirement age, the disability retirement allowance shall cease, and he or she shall again become a member of the retirement system. Should a fireman retired on ordinary disability apply for and accept employment with the city or a city agency prior to attaining the minimum service retirement age, his or her disability retirement allowance shall cease and he or she shall become a member upon completion of a probationary period. Should a policeman retired on duty disability be appointed to a position in active service pursuant to s. 62.51, Wis. Stats., on or after May 3, 1988, payment of the duty disability retirement allowance shall be suspended during the period in which the person holds office pursuant to s. 62.51, Wis. Stats.; and thereafter, notwithstanding s. 36-05-3-c-1, the person shall receive a duty disability allowance during the period of the disability in an amount equal to 75% of the annual salary at the time of appointment pursuant to s. 62.51, Wis. Stats., for the position which the person held at the time of injury, increased by the percentage of across-the board management pay increases occurring after appointment pursuant to s. 62.51, Wis. Stats. For a person restored to membership under this subsection, any prior service

certificate on the basis of which an allowance was computed at the time of disability retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement the person shall be credited with all his or her membership service on the basis of which the allowance was computed at the time of disability retirement, and all service credit to which, the person is entitled under s. 36-04-3. (*Sub. 3 am. Ch. Ord. 559, File #85-737-d, April 15, 1986; eff. June 30, 1986. Sub. 3 am. File #880374, June 7, 1988; eff. Aug. 22, 1988. Sub. 3 am. File #881667, Dec. 20, 1988; eff. March 13, 1989.*)

[Note: This subsection shall apply to policemen retiring on a normal service retirement allowance on or after January 1, 1987. (*File #881667, Dec. 20, 1988; eff. March 13, 1989.*)]

**36-08. Method of Financing. 1. FUNDS.** The assets of the retirement system shall be credited according to the purpose for which they are held in one of 4 funds as follows:

**2. RETIREMENT FUND.**

a. Contributions. The retirement fund shall be the fund into which all member and city or city agency contributions, made with respect to members, retired members, survivors, and beneficiaries who are not participants in the combined fund, together with investment income attributable to the retirement fund shall be paid except as hereinafter otherwise provided. There shall also be paid into the retirement fund all other amounts received by the board with respect to members, retired members, survivors, and beneficiaries who are not participants in the combined fund as directed by it. All retirement allowances, death benefits, separation benefits and other benefits except as hereinafter otherwise provided shall be paid from the retirement fund for members, retired members, survivors, and beneficiaries who are not participants in the combined fund. (*Par. a-1 cr. File #942016, July 14, 1995; eff. Sept. 27, 1995. Par. a am. File #970387, Oct. 14, 1997, eff. Dec. 17, 1997. Par. a am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. a-1 rp File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

### 36-08-3 Employees' Retirement System

b. Duty Disability Fund. The actuary for the board shall each year determine what funds are required to provide duty disability benefits under s. 36-05-3 and heart and lung law benefits under s. 891.45, Wis. Stats. with respect to members, retired members, survivors and beneficiaries who are not participants in the combined fund. He or she shall certify the contributions required of the city and the city agencies to pay for the duty disability benefits for firemen and policemen and general employees with respect to members, retired members, survivors and beneficiaries who are not participants in the combined fund; and also the contributions required of the city to pay benefits which arise and are allowed under the heart and lung law in excess of any disability and/or death benefits otherwise payable under the system. Benefits arising under the heart and lung law with respect to members, retired members, survivors and beneficiaries who are not participants in the combined fund shall be paid only from a fund established for such purpose and such heart and lung benefits shall not be paid out of any other funds of the retirement system. Effective January 1, 2000, there shall no longer be separate determinations each year relative to the funds required to provide duty disability retirement benefits for participants in the combined fund. (*Par. b am. File #950929, Nov. 10, 1995; eff. Jan. 31, 1996. Par. b am File #991585, April 11, 2000. eff. Jan. 19, 2001.*)

c. Duty Disability, Special Fund. The actuary shall annually determine the funds necessary to provide all duty disability benefits under s. 36-05 with respect to members, retired members, survivors and beneficiaries who are not participants in the combined fund. He or she shall certify the contributions required of the city and the city agencies to provide such benefits. Benefits arising under s. 36-05-3-c with respect to members, retired members, survivors and beneficiaries who are not participants in the combined fund shall be paid only from a fund established for such purpose and such benefits shall not be paid from any other funds of the retirement system. It shall be a violation of law to do so. There shall not be a separate contribution under this par. for participants in the combined fund. Effective February 1, 1996, the duty disability, special fund shall be merged with the retirement fund for members first enrolled on or

after February 1, 1996. Thereafter, there shall no longer be separate determinations each year of the funds necessary to provide all necessary duty disability benefits under s. 36-05 for members first enrolled on or after February 1, 1996 and benefits for members first enrolled on or after February 1, 1996 arising under s. 36-05-3-c shall be paid from the retirement fund. Effective January 1, 2000 the retirement system shall transfer into the combined fund: (1) the liabilities of the duty disability special fund attributable to participants in the combined fund, (2) the proportionate share of the market value of assets in the duty disability special fund which is calculated by multiplying the market value of assets in the duty disability special fund by a fraction the numerator of is the liabilities of the duty disability special fund attributable to participants in the combined fund and the denominator of which is the total liabilities of the duty disability special fund. (*Par. c, am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972. Par. c, am. File 950929, Nov. 10, 1995; eff. Jan. 31, 1996. Par. c am. File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

3. EXPENSE FUND. The expense fund shall be the fund to which shall be credited all money deposited in accordance with s. 36-09-6 to pay the expenses necessary in connection with the administration and operation of the retirement system and from which payments are made for those administrative expenses. For purposes of this section, investment expenses shall include all fees and costs associated with investment of the retirement system assets, including fees for investment managers, investment advisors and investment consultants, and the costs of buying and selling securities or other investments.

a. Annually, the board shall estimate the amount of money which shall be deemed necessary to provide for the expense of operation of the retirement system. On or before the second Tuesday in May of each year the board shall file with the mayor a detailed statement of all estimated expenses which are to be incurred during the ensuing calendar year. Such statement shall be reviewed and approved as are all other budgetary requests under ch. 18. The board may authorize the payment of expenses from the combined fund, which were not contemplated at the time the annual budget was approved, if the payment of such expenses is authorized by a resolution adopted by a three-quarter vote of the members-elect of the city common council.

b. Excess revenue deposited in the expense fund in accordance with s. 36-09-6 shall be available for expenditure by the employees retirement system without budgetary authorization provided that such expenditure shall be approved in advance by the board and such expenditure for the prior year shall be reported to the mayor at the time the board

files a detailed statement of all estimated expenses which are to be incurred during the ensuing calendar year. Excess revenue from security lending deposited in the expense fund which is not expended by the close of the calendar year next following the calendar year in which it is deposited shall be transferred to the retirement fund established under sub. 2.

(Sub. 3 am. Ch. Ord. 477, File #79-693, July 24, 1979. Sub. 3 am. File #930242, July 6, 1993; eff. Sept. 21, 1993., Sub. 3 rc. File #970387, Oct. 14, 1997, eff. Dec. 17, 1997. Sub. 3 am. File #991585, April 18, 2000. eff. Jan. 19, 2001. Sub. 3-0 and a am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Sub 3 am. File #021328, Jan. 22, 2003; eff. April 9, 2003.)

**4. FIREMEN AND POLICEMEN'S SURVIVORSHIP FUND.** The firemen and policemen's survivorship fund shall be the fund in which shall be accumulated all reserves from contributions by members and the city for the payment of survivorship benefits for members, retired members survivors and beneficiaries who are not participants in the combined fund as provided for in this act. The funds for firemen and policemen's survivorship benefits may be invested as provided in s. 36-09. Effective January 1, 2000 the firemen and policemen's survivorship fund shall no longer be in existence for firemen and policemen and firemen and policemen retired on a disability allowance who participate in the combined fund. (Sub. 4 am. File #991585, April 11, 2000; eff. Jan. 19, 2001.

**5. INVESTMENT FUND ACCOUNT.**

a. The board shall maintain as part of its accounts a separate and independent account known as the investment fund account. All gains realized by the board upon the sale, redemption or other disposition of securities during a calendar year shall be credited to such fund, and all investment expenses and losses sustained by the board through the sale, redemption or disposition of securities except sales of bonds referred to in

par. b during a calendar year shall be charged against such fund. The board shall have approval over investment expenditure arrangements but shall file with the mayor a detailed statement of all estimated investment expenses which are to be incurred during the ensuing calendar year, similar to the expenses to be paid from the expense fund in sub. 3. Any remaining balance in such fund at the close of the calendar year shall be allocated to the various other funds established under this section based upon the weighted average fund balances at cost for the year for such funds.

(Par. a rc., Ch. Ord. 499, File #80-1509, Jan. 20, 1981; Par. a-1 rc. File #970387, Oct. 14, 1997, eff. Dec. 17, 1997.)

b. The board shall maintain as part of its accounts an account known as unamortized losses on sale of bonds for reinvestment. This account shall be charged with all losses sustained by such board upon the sale of bonds effected by investment counsel without prior approval of such board, but only upon written recommendation from investment counsel including a report that the proceeds from other securities purchased with the proceeds of such sale will produce or exceed recovery of the loss over the remaining life of the bonds sold, or 10 years, whichever period is the shorter. The investment counsel shall be liable to the fund for any imprudence in making such sales without prior approval of the board. Based on the period during which the losses were determined to be recovered, such amortization annually shall be charged against investment income before determining net income realized from investments. This paragraph shall not apply to sales of bonds occurring on or after January 1, 1983. (Par. b am. Ch. Ord. 518, File #82-968, Oct. 19, 1982.)

**6. CITY CONTRIBUTIONS.** Contributions by the city and city agencies shall be made as follows:

a. Retirement Fund. On account of members, retired members, survivors, and beneficiaries who are not participants in the combined fund, there shall be paid annually into the retirement fund by the city and city agencies for the preceding fiscal year an amount equal to the "normal contribution" as that term is defined in subd. 1, plus the amount required to bring the expected actuarial funded status of the retirement fund, as of the date the contribution is payable, to a percentage in excess of 100%.

### 36-08-6-b Employees' Retirement System

a-1. The normal contribution for the retirement fund for the preceding fiscal year shall be the growth in actuarial accrued liability expected as a result of service in that year for all members participating in the retirement fund reduced, but not below zero, by member contributions expected to be deposited in the retirement fund under sub. 7. The actuarial accrued liability as of the valuation date shall be the portion of the total liabilities of the retirement fund that is based on service earned as of the valuation date by each active member, beneficiary and separated vested member who has not withdrawn accumulated contributions. The normal contribution shall be determined separately in respect of firemen and policemen. The determination of the normal contribution shall be based on such interest, mortality, separation, morbidity and retirement tables as have been adopted by the board. The normal contribution shall be determined by the actuary after each valuation ( *Subd. 1 am Ch. Ord. 489, File #80-225, June 17, 1980. Subd. 1 am. File #921978, Apr. 8, 1993; eff. June 16, 1993. Par. a rc File #991585, April 11, 2000; eff. Jan. 19, 2001. Par. a-1 am. File #991585, April 11, 2000; eff. Jan. 19, 2001.* )

a-2. Any difference between the actuarial accrued liability as defined in subd. 1, and the sum of the actuarially determined value of the assets of the retirement fund plus any unamortized bases established under this par. in prior valuations, shall be amortized over a period which will not exceed 30 years from the valuation date on which such difference is established; provided that as part of the valuation next following a fiscal year in which the city and city agency contributions are zero due to application of the 100% funded status limitation of this par. the actuary may eliminate any previously established amortization schedules and bases and shall recalculate a new "fresh-start" amortization schedule. Future payroll growth may be taken into account in the amortization process. (*Subd. 2 rc. File #942017, July 14, 1995; eff. Sept. 27, 1995. Subd. 2 rc. File #991585, April 11, 2000; eff. Jan. 19, 2001.* )

b. Firemen and Policemen's Survivorship Fund. There shall be paid annually into the firemen and policemen's survivorship fund the amount required under s. 36-05-8-d. Notwithstanding the foregoing, effective January 1, 2000 no contributions shall be made

to the firemen and policemen's survivorship fund by or on behalf of participants in the combined fund. (*Par. b am. File #991585, April 11, 2000; eff. Jan. 19, 2001. Par c rp. File # 991585, April 11, 2000; eff. Jan. 19, 2001. Par. d cr. File #942017, July 14, 1995; eff. Sept. 27, 1995.* ) *Pars. c and d rp. File #991585, April 11, 2000; eff. Jan. 19, 2001.* )

e. On or before September 1 in each year, the board shall certify to the common council or other governing body, and city agencies, the amounts which will become due and payable during the year next following to each of the funds of the retirement system. The amount so ascertained shall be included by the common council or other governing body and city agencies in their budgets and shall be appropriated and paid to the retirement system by the city and city agencies in January of the fiscal year next following. (*Par. d rn. to e File #942017, July 14, 1995; eff. Sept. 27, 1995.* )

f. In order to meet the requirements of this act, the common council or other governing body or city agency is authorized to levy a tax annually, which tax shall be in addition to all other taxes such common council or other governing body or city agency has been authorized to levy upon all taxable property, real and personal. Such tax shall be levied and collected at the same time and in the same manner as other city or city agency taxes are levied and collected according to law. (*Par. e rn to f File #942017, July 14, 1995; eff. Sept. 27, 1995.* )

g. Such city agencies not authorized by law to levy a tax upon taxable property shall upon the direction of the board include the necessary amounts so needed in their respective budgets. (*Par. f rn. to g File #942017, July 14, 1995; eff. Sept. 27, 1995.* )

h. Combined Fund. On account of members, retired members, survivors, and beneficiaries who are participants in the combined fund there shall be paid annually into the combined fund by the city and city agencies for the preceding fiscal year an amount equal to the "normal contribution" as that term is defined in subd. 1, plus the amount required under subd. 2; provided that the total amount contributed shall not be less than zero, and it shall also not be more than the amount required to bring the expected actuarial funded status of the combined fund, as of the date the contribution is payable, to a percentage in excess of 100%.

h-1. The normal contribution for the combined fund for the preceding fiscal year shall be the growth in actuarial accrued liability expected as a result of service in that year for all members participating in the combined fund reduced, but not below zero, by member contributions expected to be deposited in the combined fund under sub. 7. The actuarial accrued liability as of the valuation date shall be the portion of the total liabilities of the combined fund that is based on service earned as of the valuation date by each active member, beneficiary and separated vested member who has not withdrawn accumulated contributions. The normal contribution shall be determined separately in respect of firemen and policemen. The determination of the normal contribution shall be based on such interest, mortality, separation, morbidity and retirement tables as have been adopted by the board. The normal contribution shall be determined by the actuary after each valuation.

h-2. Any difference between the actuarial accrued liability as defined in subd. 1, and the sum of the actuarially determined value of the assets of the combined fund plus any unamortized bases established under this par. in prior valuations, shall be amortized over a period which will not exceed 30 years from the valuation date on which such difference is established; provided that as part of the valuation next following a fiscal year in which the city and city agency contributions are zero due to application of the 100% funded status limitation of this par. the actuary may eliminate any previously established amortization schedules and bases and shall recalculate a new "fresh-start" amortization schedule. Future payroll growth may be taken into account in the amortization process. *(Par. h cr. File #991585, April 11, 2000; eff. Jan. 19, 2001.)*

**7. MEMBER CONTRIBUTIONS.** Member contributions to the system shall be deposited in the member's account as follows:

a. Members who are not firemen, policemen or elected officials shall contribute or have contributed on their behalf, 5.5% of the member's earnable compensation. Subsequent to and commencing with the first pay period of 1970, the city shall contribute on behalf of general city employees 5.5% of such member's earnable compensation. Members employed by

city agencies participating in the system shall contribute 5.5% of their earnable compensation less any contribution made on their behalf as determined by the governing bodies of such agencies. *(Par. a rc., Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

b. For members of the system, the employer shall have the obligation to contribute the percentages set forth in this section. Members who are firemen shall have contributed for them by the employer 7% of such firemen's earnable compensation. Members who are policemen shall have contributed by the employer, commencing with the 1st pay period of 1971, 6% of such policemen's earnable compensation; policemen shall contribute 1% of their earnable compensation. Members who are policemen shall have contributed by the employer commencing with the first pay period of 1990, 7% less \$1 of such policemen's earnable compensation. Commencing in 1990, policemen, excluding sergeant of police, detective lieutenant and ranks above same, shall contribute \$1 of their longevity in rank pay, if any, payable at the close of the year. *(Par. b am. Ch. Ord. 556, File #85-769, Dec. 4, 1985; eff. Feb. 17, 1986. Par. b am. File #890633, July 25, 1989; eff. Oct. 14, 1989. Par. b, am. File #910901, Sept. 24, 1991; Dec. 10, 1991.)*

c. Members who are elected officials shall contribute or have contributed on their behalf 7% of the member's earnable compensation, and in respect to such members subsequent to and commencing with the 1st pay period of 1971 the city shall contribute 7% of earnable compensation. *(Par. c rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

d. The board shall certify the percentage of earnable compensation of each member to be contributed for a member on each payroll. In determining the amount earnable by a member in a payroll period, the board may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit contributions for any period less than a full payroll period if an employee was not a member on the first day of the payroll period. *(Par. d rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

### 36-08-7-e Employees' Retirement System

e. The contributions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the contributions provided for herein and shall receipt for his full salary or compensation and payment of salary or compensation less said contributions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this act. The city and city agencies shall transmit the amounts contributed and said amounts shall be paid into the retirement fund for participants in the retirement fund, or the combined fund for participants in the combined fund and shall be credited, together with regular interest thereon to the individual account of the member. Effective January 1, 2000, individual accounts, including interest credited annually thereto, for participants in the combined fund shall be transferred from the retirement fund to the combined fund. (*Par. e rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. Par. e am File #991585, April 11, 2000; eff. Jan. 19, 2001.*) f. In addition to the contributions credited to the member's account as hereinbefore provided, any member may deposit with the system an additional amount, such additional amount in any year not to exceed the amount of the deposit as hereinbefore provided in respect of the member. In respect of such additional contribution, an additional retirement allowance, death benefit or separation benefit shall be paid that is the actuarial equivalent of such additional accumulated contributions. Such additional amounts so deposited, improved with interest at a rate not exceeding the regular interest rate shall be returnable to the member in cash upon application to the board, or as an additional allowance of equivalent actuarial value at the time of retirement. If such additional amounts are withdrawn at any time prior to the retirement, the member shall not thereafter be eligible to make additional contributions. (*Par. f rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

g. Any member covered by the social security act from whose compensation the city is required to make deductions in order to pay taxes or contributions, shall be required to reimburse the city for that part of the social security taxes or contributions which would ordinarily be deductible from compensation paid to such member. If he fails so to do, the board shall deduct from the member's account the amount due the city for such social security taxes or contributions paid before turning over any amounts to such member or to a beneficiary in the instance where the beneficiary would be entitled to the proceeds from such member's account. (*Par. g rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

h. If the employer shall pay a part or all of the member contribution to the fund which formerly was deducted from the member's salary or compensation then in such instance no deduction shall be made from the member's salary or compensation for that amount paid by the employer in lieu of the member's contribution, and such contribution shall be credited to the member's account. (*Par. h rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

i. The member's account shall consist of those member contributions deposited in accordance with pars. a, b, c, and f and reduced in accordance with par. g together with regular interest thereon. (*Par. i rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

j. Notwithstanding anything herein contained to the contrary, in the event the contributions required under pars. a, b, or c are not made by or on behalf of a member, or in the event contributions with or without regular interest or a portion thereof have been returned to a member or paid on his behalf to another party, such member's account shall be reduced accordingly and the benefits otherwise provided under the system shall be reduced by the actuarial equivalent of such payment or contributions not paid by or on behalf of the member. (*Par. j rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)



k. Whenever a member's account is less than \$5 upon death or separation from service, his or her membership and account in this system shall be terminated and the amount shall be credited to the retirement fund (or combined fund in the case of participants in the combined fund); however, if a valid claim for the amount is filed by the member or a person legally entitled to the sum, the same shall be refunded. (*Par. k rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. Par. k am. File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

L. In addition to any other member contributions under sub. b, effective Pay Period 1 through Pay Period 26, 1993 and December 31, 1995 through December 28, 1996 for firemen, and effective Pay Period 1, 1993 through December 30, 1995 for policemen, each fireman or policeman in active service and each fireman or policeman, other than a fireman or policeman eligible under s. 36-05-3-c-1-b, who retires on a duty disability retirement allowance on or after January 1, 1993 shall contribute 1% of the member's earnable compensation or 1% of the member's duty disability retirement allowance toward the cost of the benefit provided for under s. 36-05-1-h-6. Effective Pay Period 1, 1994 through December 30, 1995, each fireman, other than a fireman eligible under sec. 36-05-3-c-1-b, in active service and each fireman who retires on a duty disability retirement allowance on or after January 1, 1993 shall contribute 2% of the member's earnable compensation or 2% of the member's duty disability retirement allowance toward the cost of the benefit provided for under s. 36-05-1-h-6. A fireman who retires on a duty disability retirement allowance shall cease to make this contribution at the time the member makes an irrevocable election to continue duty disability or converts to normal service retirement under s. 36-05-3-c-3-f. (*Par. L cr. File #940423, July 15, 1994; eff. Sept. 28, 1994. Par. L am. File #950521, July 28, 1995; eff. Oct. 3, 1995. Par. L rc. File #950597, Sept. 27, 1995; eff. Dec. 13, 1995.*)

m. During the 8-year period immediately following their enrollment, general city employees who are enrolled as members on or after January 1, 2000 shall contribute to the combined fund a sum expressed as 1.60% of the member's pensionable earnings if they participate in the combined fund. If a member

who makes contributions under this par. separates from service without a vested pension or withdraws his or her accumulated contributions, amounts contributed under this par. shall be returned to the contributor without interest. (*Par. m cr. File #991585, April 11, 2000; eff. January 19, 2001.*)

n. If a general city employee who enrolled as a member on or after January 1, 2000 separates from service without having contributed the full amount of the contribution required under par. m, and if the employee does not voluntarily pay the amount owed, then the board shall collect the amount as far as practicable by deducting from any benefit payment an amount sufficient to collect the amount owed over the remaining life expectancy of the member. If the benefit is to be paid in a lump sum, the amount owed shall be deducted from the lump sum. If the benefit is to be paid monthly, the monthly payments shall be actuarially reduced over the remaining life of the member to an amount that will collect the amount owed and the loss caused by late payment. (*Par. n cr. File #051397, Feb. 28, 2006; eff. May 16, 2006.*)

**8. EMPLOYERS' RESERVE FUND.** Effective January 1, 2000 there shall be created a fund to be known as the employers' reserve fund for the exclusive purpose of holding voluntary employer contributions made by the city and city agencies. The retirement system shall establish separate accounts within the fund for the city and each city agency. Earnings on funds on deposit in each account shall be credited annually as part of the annual valuation based on the earnings of the retirement system as a whole. The reserve shall be funded by voluntary contributions from the city and city agencies and also by the amount transferred from the firemen and policemen's survivorship fund. The reserve shall be used to offset against contributions required under subs. 6 and 7 in accordance with directives contained within a formal resolution adopted by the city or city agencies. No funds may be transferred from the combined fund or the retirement fund to the employers' reserve fund. (*Sub. 8 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

**9. COMBINED FUND.** a. Creation. Effective January 1, 2000, there shall be created a fund to be known as the combined fund into which all member contributions, city

### 36-09 Employees' Retirement System

contributions and city agency contributions, shall be paid on account of members, retired members and beneficiaries participating in the combined fund, together with interest earnings attributable to assets of the combined fund. There shall be paid annually into the combined fund by the city and city agencies for the preceding fiscal year the "normal contribution" for members who participate in the combined fund. All members of the retirement system first enrolled after June 27, 2000 shall participate in the combined fund. Members and retired members (or their survivors and beneficiaries if the member is deceased) enrolled in the retirement system prior to June 28, 2000 may execute a consent form to participate in the combined fund in which case they shall participate in the combined fund effective January 1, 2000. Other members, retired members, survivors and beneficiaries shall participate in the combined fund effective January 1, 2000 only after there is a final determination by a court of competent jurisdiction that such participation does not violate their individual rights. If a member is a participant in the combined fund the member's survivors and beneficiaries shall be designated as participants in the combined fund by virtue of the members' participation in the combined fund. All retirement allowances, disability benefits, separation benefits and other benefits payable to combined fund participants shall be paid from the combined fund effective January 1, 2000 or upon enrollment in the retirement system if participants are first enrolled in the retirement system after January 1, 2000. Effective January 1, 2000, all expenses in connection with the administration and operation of the retirement system defined as those described in the letter dated April 29, 1999 (and attachments), attached to the file **[#991585, April 11, 2000; eff. Jan. 19, 2001]**, including investment related expenses, computerization related expenses and indirect related expenses (overhead) shall be paid from the combined fund created under this sub.

b. Outstanding debts. Any provision of ch. 36 notwithstanding, all outstanding judgment debts or contributions of the city or any city agency for unpaid contributions to the separate funds under s. 36-08 or the merged fund (merged special disability fund and retirement fund for members enrolled after February 1, 1996, but before January 19, 2001; incurred prior to January 1, 2000,

including special disability fund obligations of the city for the years 1996 through 1999, performance fee obligations of the city for the year 1997, investment expense obligations of the city and city agencies for the years 1998 and 1999 and merged fund obligations of the city and city agencies for the years 1997 through 1999 and interest owing thereunder shall become obligations of, and paid from, the combined fund. (*Sub. 9 cr. File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

**36-09. Management of Funds.** The funds of the retirement system, which, when taken in the aggregate shall constitute a special trust fund to be held in reserve as provided in this act for the payment of benefits, shall be managed as follows:

1. **INVESTMENT OF FUNDS.** The board shall be the trustee of the several funds of the system and shall contract for investment management services. No one shall be selected as investment manager who does not have 5 years continuous experience acting as investment manager or investment adviser in recognized fields of investments for retirement systems of comparable stature. The board shall exercise prudence in selecting the investment manager, but the exercise of prudence by the board shall not relieve the board from all liability and responsibility with respect to investment of the funds of the system. The board shall reserve the right to terminate any contract for investment management services upon reasonable notice.

a. The several funds of the system shall be invested in accordance with the requirements of ss. 40.03(1)(n) and 62.63 (3), Wis. Stats. Not more than 25% of the assets of the system as measured by their cost as set forth in the last official report shall be invested in accordance with s. 40.03(1)(n), Wis. Stats. Not more than 70% of total assets as measured by their cost shall be invested in stocks of corporations.

b. The board shall establish written objectives and guidelines which shall govern the investment manager selected by the board. The investment manager shall have authority to purchase legal investments and to sell or exchange legal investments in accordance with the written objectives and guidelines established by the board for this purpose. The board shall evaluate the performance of the investment manager on a systematic and

regularly scheduled basis. The board shall have the full power at its sole discretion to contract for an independent performance evaluation of the investment manager.

c. All investments shall be made by the investment manager and nothing contained herein shall prohibit the board from retaining 2 or more investment managers to perform the duties and assume the responsibilities herein provided for and the board may determine the amount of the whole fund to be allocated for investment purposes among such investment managers where more than one investment manager has been selected. However, any investment manager selected shall be required as a condition of his or her selection to meet and satisfy all of the requirements and qualifications specified herein and provided for, for investment manager.

d. Prudent Investor Rule. Except as otherwise specifically provided in this chapter, the board and a person under contract to the employees' retirement system who invests and manages trust assets owes a duty to comply with the prudent investor rule.

d-1. Standard of Care; Portfolio Strategy; Risk and Return Objectives. The board and a person under contract to the employees' retirement system to invest and manage trust assets shall invest and manage assets as a prudent investor would by considering the purposes, terms, distribution requirements and other circumstances of the trust. In satisfying this standard, the board and such person shall exercise reasonable care, skill and caution. Investment and management decisions respecting individual investment assets must be evaluated not in isolation, but in the context of the trust portfolio as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the trust. A reasonable effort shall be made to verify facts relevant to the investment and management of trust assets. Assets may be invested in any kind of property or type of investment consistent with the standards of this subd. A board member or a person under contract to the employees' retirement system who invests and manages trust assets who has special skills or expertise or is named in reliance upon his or her representation that he or she has special skills or expertise has a duty to use those special skills or expertise.

d-2. Diversification. The board and person under contract to the employees'

retirement system to invest and manage trust assets shall diversify the investment of the trust unless the board reasonably determines that because of the special circumstances, the purposes of the trust are better served without diversifying.

d-3. Loyalty. The board and a person under contract with the employees' retirement system to invest and manage trust assets shall invest and manage the trust assets solely in the interests of the beneficiaries.

d-4. Investment Costs. In investing and managing trust assets, the board and a person under contract to the employees' retirement system to invest and manage trust assets may only incur costs that are appropriate and reasonable in relation to the assets for the purposes of the trust and the skills of the trustee.

d-5. Delegation. The board has a duty to personally perform the responsibilities of trusteeship except as those responsibilities are by this section delegated to others or except as a prudent person might delegate those responsibilities to others. In deciding whether and to whom and in what manner to delegate fiduciary authority in the administration of the trust and thereafter supervising agents, the board is under a duty to the beneficiaries to exercise fiduciary discretion and to act as a prudent person would in similar circumstances. In performing a delegated function, a person under contract to the employees' retirement system to invest or manage funds owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation. The board shall not be liable to the beneficiaries or to the trust for the decisions or actions of a person to whom a function was delegated provided that the board shall have used reasonable care, skill and caution in selecting the person; establishing the scope and terms of the delegation consistent with the purposes and terms of the trust; and periodically reviewing the person's actions in order to monitor performance in compliance with the terms of delegation.

d-6. Reviewing Compliance. Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of the decision or action and not by hindsight.

d-7. The text and comments to the Uniform Prudent Investor Act promulgated by the National Conference of Commissioners on

## **36-09-2 Employees' Retirement System**

Uniform State Laws (1994) and the Restatement of Trusts 3d: Prudent Investor Rule (1992) are interpretive of the provisions of this par.

d-8. Nothing in this par. prevents the board and the employees' retirement system from requiring indemnification or insurance from a contractor, nor does anything in this par. preclude the board and the employees' retirement system from obtaining indemnification or insurance for their activities.

**2. TRANSFERS OF PROPERTY; REINVESTMENT OF FUNDS.** The board shall have full power to make all transfers and conveyances of any securities or property in which it may from time to time invest and reinvest the several funds of the system or any part thereof, and no purchaser or purchasers shall be responsible for the application of the purchase money or other avails received by or for said board.

**3. INTEREST.** The board annually shall credit regular interest to the members' accounts and on the mean amount for the preceding year in each of the other funds with the exception of the expense fund. The amounts so allowed shall be due and payable to said funds, and shall be annually credited thereto by the board from interest and other earnings on the moneys of the retirement system. Any additional amount required to meet the interest on the funds of the retirement system shall be paid by the city and city agencies, and any excess of earnings over such amount required shall be deductible from the amounts to be contributed by the city and city agencies except for the firemen and policemen's survivorship fund. Regular interest shall mean such rate, compounded annually, as shall be determined by the board on the basis of interest earnings of the system for the preceding year and of the probable earnings to be made, in the judgment of the board, during the immediate future such rate to be limited to a minimum of 3% and a maximum of 4%.

**4. INTEREST IN OR USE OF FUND.** Except as herein provided no member of the board and no employe of the board shall have any interest, direct or indirect, in the gains or profits of any investment made by the board. No member of the board or employe thereof shall directly or indirectly, for himself or as an agent, in any manner use the funds or deposits of the retirement system except to make such current and necessary payments as are

authorized by the board; nor shall any member or employe of the board become an endorser or surety or in any manner an obligor for moneys loaned by or borrowed from the board.

**5. EFFECTIVE DATE.** Wherever used in this act the term "effective date of the retirement system" shall be construed to mean January 1, 1938, and the term "effective date of the act" shall refer to the effective date when the legislature made such provision effective in the event of legislation enacted by the Wisconsin legislature, and in the event of a charter ordinance the effective date when such amendment came into effect as a result of common council enactment of the charter ordinance.

**6. POWERS AND PRIVILEGES OF RETIREMENT SYSTEM.** The retirement system shall have all of the powers and privileges of a corporation, as enumerated in chs. 180 and 182, Wis. Stats., including the power to contract with its members, and shall be known as the "employees' retirement system of the City of Milwaukee," and by such name shall all of its business be transacted. All of its funds shall be invested, or held in the name of the employees' retirement system, except that investment in loans, securities or other investments may be in the name of or transferred to nominees of one or more banks or trust companies under a custodial agreement between the board and each such bank or trust company. The custodial agreement may provide that loans, securities or other investments in the name of or transferred to nominees of one or more banks or trust companies may be loaned by the custodian with suitable collateral in an amount not less than 102% of market value. All its cash and securities and other property shall be held in trust for the purpose for which received. Revenue from security lending shall be used to offset custodial fees and any excess revenue from security lending shall be deposited in the expense fund established under s. 36-08-3. Any incorrect spelling of name of the system shall not be deemed to invalidate any document or affect any transaction of the system and for purposes of action under this act shall be without consequence or effect.

**7. LIMITATIONS.** All funds of the system shall be invested prudently and in accordance with the requirements of the law and of this act and no funds whatsoever of the pension system may be either pledged,

deposited, or used in any form or in any manner whatsoever to provide either credits or support or act as deposit for or be used as collateral for any banking, financing, borrowing or other related transaction whatsoever. The board may contract for investment or custodial services or both with a state investment board or with a nationally recognized banking or investment institution. It is intended that this provision shall be given its most liberal construction which will prevent and preclude the use of funds for the purposes heretofore enumerated. This provision is deemed to be contractual and a vested right of each and every member and beneficiary of the system. (S. 36-09 am. Ch. Ord. 332, File #67-355-a, July 25, 1967. 36-09-0 am. Ch. Ord. 368, File #70-2757, April 13, 1971. 36-09-1 rc. Ch. Ord. 448, File #77-152, July 26, 1977. 36-09-1-0 am. File #912350, April 15, 1992; eff. July 9, 1992. 36-09-1-a am. File #891732, Jan. 16, 1990; eff. April 4, 1990. 36-09-1-a am. File #950077, July 14, 1995; eff. Sept. 27, 1995. 36-09-1-c am. File #950077, July 14, 1995; eff. Sept. 27, 1995. 36-09-1-d cr. File #950077, July 14, 1995; eff. Sept. 27, 1995. 36-09-3 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. 36-09-6 am. Ch. Ord. 537, File #83-2361, June 12, 1984. 36-09-6 am. File #930242, July 6, 1993; eff. Sept. 21, 1993. 36-09-7 cr. Ch. Ord. 361, File #69-990, Nov. 11, 1969.)

**36-10. Exemption from Taxation, Execution and Assignment. 1.** All moneys and assets of any retirement system of any city of the first class and all benefits and allowances and every portion thereof, both before and after payment to any beneficiary, granted under any such retirement system shall be exempt from any state, county, or municipal tax or from attachment or garnishment process, and shall not be seized, taken, detained, or levied upon by virtue of any execution, or any process or proceeding whatsoever issued out of or by any court of this state, for the payment and ratification in whole or in part of any debt, claim, damage, demand, or judgment against any member of or beneficiary under any such retirement system, and no member of or beneficiary under any such retirement system shall have any right to assign his benefit or allowance, or any part thereof, either by way of mortgage or otherwise; however, this prohibition shall not apply to assignments made

for the payment of insurance premiums. The exemption from taxation contained herein shall not apply with respect to any tax on income. **2** .

Notwithstanding sub. 1., a beneficiary who was a member may elect to have a taxable distribution except: annuities paid over life or life expectancy; installments for a period spanning 10 years or more; and minimum distributions under s. 401(a)(9) of the Internal Revenue Code; paid directly to an individual retirement account or bona fide defined contribution account that accepts contributions (Internal Revenue Code s. 401(a) and (31) and Internal Revenue Code s. 404(a)(2), including an eligible plan under s. 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan, or a tax sheltered annuity that accepts rollovers (Internal Revenue Code s. 403(b)(10)). For distributions made on or after January 18, 2006, in the event of a mandatory distribution greater than \$1,000 in accordance with the provisions of s. 36-05-1-a, 36-05-6-d-2, 36-05-6-e, 36-05-11-a or b, if the beneficiary does not elect to have such distribution paid directly to an eligible retirement plan specified by the beneficiary in a direct rollover or to receive the distribution directly in accordance with this section, then the board will pay the distribution in a direct rollover to an individual retirement plan designated by the board.

**3.** Notwithstanding sub. 1., a beneficiary who is the surviving spouse of a member or beneficiary who was a member may elect to have a taxable distribution except: annuities paid over life or life expectancy; installments for a period spanning 10 years or more; and required minimum distributions under s. 401(a)(9) of the Internal Revenue Code; paid directly to an individual retirement account or a bona fide defined contribution account that accepts contributions (Internal Revenue Code s. 401(a) and (31) and Internal Revenue Code s. 404(a)(2), including an eligible plan under s. 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan, or a tax

## 36-11 Employees' Retirement System

sheltered annuity that accepts rollovers (Internal Revenue Code s. 403(b)(10). (S. 36-10 cr. File #67-355-a, July 25, 1967; 36-10 m. 36-10-1, File #921973, April 8, 1993; eff. June 28, 1993. 36-10-2 cr. File #921973, April 8, 1993; eff. June 28, 1993. 36-10-3 cr. File #921973, April 8, 1993; eff. June 28, 1993. 36-10-2 am. File #031148, Dec. 19, 2003; eff. March 13, 2004. 36-10-3 am. File #031148, Dec. 19, 2003; eff. March 13, 2004. 36-10-2 am. File #051174, Jan. 18, 2006; eff. April 5, 2006.)

### **36-11. Protection Against Fraud and Elimination of Errors. 1. PROTECTION AGAINST FRAUD.**

Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act shall be guilty of a misdemeanor, and shall be punishable therefore under the laws of the state of Wisconsin.

**2. ELIMINATION OF ERRORS.** Should any change or error in the records result in any member or beneficiary receiving from the retirement system more or less than he or she would have been entitled to receive had the records been correct, the board shall correct such error, and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. (s. 36-11 am. Ch. Ord. 332 File #67-355-a, July 25, 1967. s. 36-11 rc. File #020065, May 14, 2002; eff. July 31, 2002.)

**36-12. Limitations on Payment of Benefit.** Any amounts which may be paid or payable under the provisions of any state worker's compensation, or similar law, to a member or to the dependents of a member on account of any disability shall be offset against and payment in lieu of any benefits payable out of funds provided by the city under the provisions of this act on account of the same disability. Within 30 days of notification by the board, any member may elect to offset the full amount of a lump sum award of amounts payable in fulfillment of the obligation to offset amounts payable. In case the present value of the total commuted benefits under said worker's compensation or similar law is less than the reserve on the benefits otherwise payable from funds provided by the city under this act, then the present value of the commuted payments

shall be deducted from the reserve and such benefits as may be provided by the reserve so reduced shall be payable under the provisions of this act. Upon recommendation of the actuary, the board may approve separate tables for purposes of computing present values under this section. Within 30 days of notification by the board, any member who received an award of amounts payable on or before January 1, 1995 shall have the option of electing to pay the present value of such award or of electing to have the offset recalculated using separate tables developed for this purpose. Notwithstanding the foregoing, amounts paid or payable as social security disability benefits shall not be offset against the benefits payable by the city under the provisions of this act on account of the same disability to members in the coordinated plan. (S. 36-12 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971. 36-12 am. File #941597, Feb. 14, 1995; eff. May 2, 1995. 36-12 am. File #950767, October 17, 1995; eff. January 2, 1996.)

### **36-13. Contractual Benefits; Miscellaneous Provisions. 1. LEGISLATIVE POLICY.**

Employees have been attracted to and have remained in the public service in cities of the first class despite the prevailing higher wages in other employments because of the deferred compensation for their services promised to them in the form of retirement annuities and death benefits in the retirement system to which they have been admitted as contributing members. The purpose of this act is to strengthen the public service in cities of the first class by establishing the security of such retirement and death benefits.

**2. CONTRACTS TO ASSURE BENEFITS.** The benefits of members, whether employees in service or retired as beneficiaries, and of beneficiaries of deceased members in the retirement system created by chapter 396, laws of 1937, as amended, shall be assured by benefit contracts as herein provided.

a. Every such member and beneficiary shall be deemed to have accepted the provisions of this act and shall thereby have a benefit contract in said retirement system of which he is such member or beneficiary as of July 30, 1947, unless, within period of 30 days thereafter, he files with the board administering the system a written notice electing that this subsection shall not apply to him. The annuities and all other benefits in the

amounts and upon the terms and conditions and in all other respects as provided under this act and as amended shall be obligations of such benefit contract on the part of the city and of the board administering the system and each member and beneficiary having such a benefit contract shall have a vested right to such annuities and other benefits and they shall not be diminished or impaired by subsequent legislation or by any other means without his consent.

b. The board administering the system may issue to each member and beneficiary who shall have a benefit contract under this act a written or printed contract but the contract shall be in full force and effect whether or not any written or printed evidence thereof shall be so issued.

c. Any person who shall become a member of this retirement system after July 30, 1947, except persons who shall become members of this retirement system on or after March 1, 1985, as a result of being employed as firemen, and persons who shall become members of this retirement system on or after August 1, 1985, as a result of being employed as policemen, shall have a similar benefit contract and vested right in the annuities and all other benefits in the amounts and on the terms and conditions and in all other respects as provided in the law under which the retirement system was established as such law shall have been amended and be in effect at the date of commencement of his membership and as subsequently amended. Every person who shall become a member of this retirement system on or after March 1, 1985, as a result of being employed as a fireman, and every person who shall become a member of this retirement system on or after August 1, 1985, as a result of being employed as a policeman shall have a similar benefit contract and vested right in the annuities and all other benefits in the amounts and on the terms and conditions and in all other respects as provided in the law under which the retirement system was established as such law shall have been amended and be in effect at the date of the commencement of his membership. (*Par. c am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Par. c am. Ch. Ord. 565, File #86-1820, Feb. 24, 1987; eff. May 11, 1987.*)

d. Contributions which are made to this fund under this act by the city or by an

agency which is covered by this act, as contributions for members of this system shall not in any manner whatsoever affect, alter or impair any member's rights, benefits, or allowances, to which such member under this act is or may be entitled; neither shall the fact that such contributions are made, grant or confer upon such city or agency covered by this act, any additional rights, interest or authority in such contributions so made or in the management or supervision of this system or in the fund thereof. Contractual and vested rights, benefits or allowances which either have been or are declared and expressed in this act continue without impairment or reduction in any manner whatsoever, and such rights, benefits or allowances shall not be or are not in any manner affected, modified or diminished as a result of such contributions made by the city or an agency covered by this act; nor can such rights, benefits or allowances be altered, modified or impaired so that any diminution occurs in any member's rights, benefits or allowances. (*Par. d cr. Ch. Ord. 370, File #74-239, May 24, 1971.*)

e. No rights, benefits or allowances whatsoever created under or pursuant to the provisions of the employees' retirement act or as amended heretofore or hereafter, nor creditable, nor prior service, nor credits granted, either recognized or allowed to such member, or retired member or beneficiary, nor any rights or benefits allowed or allowances granted by virtue of any minimum or maximum retirement provisions or requirements, nor any minimum or maximum retirement provisions of this act shall in any manner whatsoever, or in any form, either be altered, modified, reduced, changed, cancelled, revoked or impaired, now or hereafter to the disadvantage or loss of such member or retired member or beneficiary as to his pension rights, payments or retirement allowances, and no action shall be taken nor provision enacted which in any manner diminishes, reduces or denies to such member or retired member or beneficiary any of his or her retirement allowances, benefits or rights derived from or under any section of this act or rule promulgated by the board as authorized by this act or as heretofore provided. No application nor interpretation of the provisions of this act or rule of the board shall be either effected, instituted or promulgated retroactively or applied in such a manner as to such member, retired member or beneficiary so that

### 36-13-4 Employees' Retirement System

it results in any form, in the diminution, loss or partial loss or reduction of any credit, benefit or retirement allowance to which such person was or is entitled because of prior interpretation or application of the provisions of this act or rule whether general or specific. The protection, safeguarding and the security of the rights, benefits and allowances expressed in this subsection are and shall be deemed fully vested, contractual and binding upon the employer and guaranteed by it. No act, action or delinquency of a member of this system shall in any manner defeat or prevent him or his beneficiary from receiving the full benefits or allowances to which he was entitled up to the time of the occurrence of such act, action or delinquency and any provision of this act which is in conflict therewith is deemed superseded and repealed and to be without force and effect. This paragraph shall not apply to persons who shall become members of this retirement system on or after March 1, 1985, as a result of being employed as firemen, or persons who become members of this retirement system on or after August 1, 1985, as a result of being employed as a policeman. (*Par. e am. Ch. Ord. 552, File #85-118-a, July 16, 1985; eff. Sept. 30, 1985. Par. e am. Ch. Ord. 554, File #85-845, Oct. 1, 1985; eff. Dec. 15, 1985.*)

f. Any provision of ch. 36 notwithstanding, the granting of a benefit to any member, retired member, survivor or beneficiary participating in the retirement system to the exclusion of a member, retired member, survivor or beneficiary participating in the combined fund shall not be deemed in violation of the rights of such other member, retired member, survivor or beneficiary participating in the combined fund who is not granted such benefit, even if funded by the existing assets of the retirement system and/or future earnings. (*Par f. cr. File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

g. Every member, retired member, survivor and beneficiary who participates in the combined fund shall have a vested and contractual right to the benefits in the amount and on the terms and conditions as provided in the law on the date the combined fund is created. (*Par g. cr. File #991585, April 11, 2000; eff. Jan. 19, 2001.*)

#### 4. GUARANTY AND SUPERVISION.

a. The creation and maintenance of reserves in the retirement fund, the

maintenance of annuity reserves and pension reserves as provided for, and regular interest creditable as provided for to the various funds, shall be mandatory and shall be obligations of the city and city agencies whose employees are under this act. (*Par. a am. Ch. Ord. 382, File #71-2300, Mar. 21, 1972.*)

b. The payment of all pensions, annuities, retirement allowances, refunds and other benefits granted under the provisions of this act shall be deemed deferred pay of such member, and the payment of all pensions, annuities, retirement allowances, refunds and other benefits granted under the provisions of this act and all expenses in connection with the administration and operation of the retirement system are made obligations of the city and city agencies.

c. The legal title to the funds created by this act shall be in the retirement system and shall be held by it in trust for the purposes for which they were contributed under this act and no amendment to the act shall reduce the benefits of any member below those which can be provided by the reserves of the system held in his account, nor shall the reserves held in his account, nor shall the reserves held on account of any member be diluted by the addition of new members or annuitants receiving benefits of any members.

d. The various funds of the employees' retirement system shall be subject to periodic audit examination and each 5 years there shall be valuation of the system by the board's actuary as provided in s. 36-15-14. A copy of such valuation shall be made available to the commissioner of insurance of the state of Wisconsin in accordance with ch. 641, Wis. Stats. A copy of the annual fiscal audit reports when available shall also be sent to the insurance department. All other pertinent provisions of ch. 641, Wis. Stats. shall be applicable. (*Par. d am. Ch. Ord. 372, File #71-797, July 30, 1971.*)

#### 5. TRANSFER AND CREDITS.

a. Creditable Service. Any person who is a member of either the county or city of Milwaukee retirement system who within 60 days after termination of employment transfers from employment in either the county or city, as the case may be, without receiving any withdrawal benefits from either the city or county retirement system, shall be entitled to receive a service retirement allowance which



shall be computed in the following manner, except as otherwise noted in pars. b and c: (*Par. a-0 am. Ch. Ord. 553, File #85-643, July 30, 1985; eff. Oct. 15, 1985. Par. a-0 am. Ch. Ord. 560, File #86-807, Sept. 23, 1986; eff. Dec. 18, 1986. Par. a-0 am. File #892334, April 9, 1990; eff. June 26, 1990.*)

a-1. The formula of the retirement system to which he has transferred in effect at the time of his retirement shall be used.

a-2. The final average salary of such person in the retirement system to which he has transferred shall be the base to which is applied the formula.

a-3. The aggregate creditable service including all service credit shall be the number of years or fraction of years of such service allowable under the respective provisions of both the county or city retirement system, as the case may be, together with the years of service or part thereof in the retirement system to which such person transferred.

a-4. The retirement system from which such person transferred shall contribute toward the service retirement allowance computed as hereinbefore set forth as follows: Such contribution shall be prorated on the basis of the total service earned by virtue of the service in the system from which the member transferred to the total service as provided for in subd. 3. (*Subd. 4 am. Ch. Ord. 560, File #86-807, Sept. 23, 1986; eff. Dec. 8, 1986.*)

a-5. In the event an entire department or a substantial number of employees in a department are transferred from city to county, or vice versa, then under such circumstances the method of contribution by the retirement system from which such employee transferred shall be handled at the time of transfer on a basis satisfactory to both systems and the method of contribution by the respective pension systems may be altered in that event, but this shall not affect the other provisions hereof.

b. **Transfer From County.** Any person who is transferred from the county system to the city system under this section and whose retirement occurs within 5 years of the date of transfer shall receive an allowance on account of his service prior to the date of transfer which shall not be greater than the allowance he would have received on account of his service to the date of transfer if he had remained a member of the system from which he transferred. He shall also be entitled to and

receive an allowance on account of his service subsequent to such transfer. (*Par. b am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

c. **Transfer To County.** When any person who has been a member of the city system transfers to the county system and at the time of such transfer to that system, such member has less than one year of creditable service, his membership in the city system shall be terminated as of the date of transfer, and there shall be refunded to such person all sums contributed by him to the fund during the period of time he was in active city service.

d. **Payments and Accounts.** The liability of the city system for such credits and payments because of former members of the city system who shall have become members of the county system shall be taken into account by the board in its valuations and determinations of contributions to be made to the funds of the city system.

e. **Transfer of Credits.** Whenever any city employe who is a member of this system or any other system to which the city is a contributor desires to change his city employment, and such city employment is approved by the proper city officers, the credits which such person has accrued from the pension system from which he is transferring shall be transferred in full to this system, and such person shall be granted under this system credits in the same manner as if he had been a member of this system from the inception of his city service. An actuarial determination shall be made of any deficiency of credits, and the city and the employe shall be required to contribute to this system any difference in amount which shall be found by the actuarial determination to be required in order to make such person's account actuarially sound.

f. **Termination of Membership.** Any time after December 1, 1961, when an employe of the city, who is also a member of this system, transfers to employment in the county or becomes a member of the employees' retirement system of Milwaukee county because of court reorganization as provided for by state act, he may withdraw his contributions from this system provided that such member shall execute a waiver and release and such other forms as shall be determined by the board, and, following the return of contributions to such employe, his membership shall be terminated and such employe shall have no right or interest whatsoever in any

### 36-14 Employees' Retirement System

pension, annuity or benefit of the system nor any other right or privilege whatsoever as a result of his membership in this system. Such election shall also terminate any right or interest of such member to any transfer by the city or by this system of accruals, credits, rights or benefits to any other retirement system, and such employee shall be deemed to waive any rights as to membership or restoration thereof in this system for the period of time prior to refund of his contributions.

g. Any member of the city or county employees' retirement system, who separated from service after having elected deferred retirement benefits, who thereafter became a member under the other system within 60 days of separation from the first system and who separated from the other system without having first received benefits from the first system, shall have service under both systems included for purposes of determining final average salary for retirement allowance purposes under each system and shall have creditable service under the first system included in determining whether the vesting requirements for retirement purposes of the other system have been met. This paragraph shall be the exclusive reciprocity for all members separating from the first system on or after June 1, 1991.

(Par. g cr. File #911897, passed Feb. 11, 1992. This file provided that par. g would become effective when Milwaukee county passed an ordinance identical in all respects to par. g. On June 27, 1995, the common council passed File #950326, effective Sept. 13, 1995, which repealed the contingency placed on par. g with respect to Milwaukee county action.)

h. When Member of State Retirement System. Whenever the state of Wisconsin retirement system certifies that a member of this retirement system has service credit as a member of the retirement system of the State of Wisconsin, he shall receive credit therefor in computing his retirement allowance at a specific rate of 1.6% of his final average salary for each year or part thereof. The retirement allowance upon his retirement under the provisions of this act shall be reduced by the maximum amount which such member is entitled to receive as a retirement allowance from the state retirement system. If the member is not entitled to receive a retirement allowance from the state retirement system because of an election he has made on or after March 11, 1977, his retirement allowance shall

nevertheless be reduced by the maximum amount to which he would have been entitled from the state retirement system had such election not been made. (Par. g am. Ch. Ord. 439, File #76-164, Dec. 23, 1976. Par. g rn. to h, File #911897, Feb. 11, 1992; eff. Apr. 13, 1992.)

i. Applicability. The board shall adopt rules for the application of par. g respecting treatment of interrupted service, computation of offset and service credit not in excess of creditable service in this system. (Par. h cr. Ch. Ord. 361, File #69-990, Nov. 11, 1969. Par. h rn. to i, File #911897, Feb. 11, 1992; eff. Apr. 13, 1992.)

6. GUARDIAN FOR MEMBER. Whenever a guardian has been appointed for a member by a court of record and a certified copy of the order appointing the guardian has been filed with the secretary of the board, such guardian may file an application for retirement and also elect the option and may designate the beneficiary when authorized by such court so to do.

7. DEATH BENEFIT PAYMENTS TO BENEFICIARIES RESIDING IN FOREIGN COUNTRIES. In the event that a member designates a beneficiary who is both a resident and a citizen of a foreign country to receive a death benefit and contributions made by such member, the board shall determine whether such benefit shall be paid to the beneficiary or instead be made payable to the estate of such deceased member. No death benefit shall be payable on account of the death of such member and only the member's contributions shall be paid to the beneficiary or the estate of the member, unless the board shall determine otherwise. (am. Ch. Ord. 332, File #67-355-a, July 25, 1967.)

**36-14. Home Rule.** For the purpose of giving to cities of the first class the largest measure of self-government with respect to pension, annuity and retirement systems compatible with the constitution and general law, it is hereby declared to be the legislative policy that all future amendments and alterations to this act are matters of local affair and government and shall not be construed as an enactment of statewide concern. Cities of the first class are hereby empowered to amend or alter the provisions of this act in the manner prescribed by s. 66.0101, Wis. Stats., provided that no such amendment or alteration shall modify the

annuities, benefits or other rights of any persons who are members of the system prior to the effective date of such amendment or alteration. (*am. Ch. Ord. 332, File #67-355-a, July 25, 1967.*)

**36-15. Administration. 1. ANNUITY AND PENSION BOARD.** a. Retirement System and Group Life Insurance. The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this act are hereby vested in an annuity and pension board which shall be organized immediately after the first 4 members provided for in this section have qualified and taken the oath of office. In addition to all other duties and responsibilities assigned to the board by the provisions of the employees' retirement act, the board shall be responsible for administering the city's group life insurance program, retiree health benefits and retiree dental COBRA benefits as provided for in ordinance adopted by the common council. (*Par. a am. File #990253, June 2, 1999; eff. Aug. 18, 1999.*)

b. Emergency Powers. It is expressly provided that in the event of a national emergency declared by the president of the United States or a national emergency resulting from aerial attack on the area surrounding or on the city of Milwaukee, and a quorum of the board is not available to direct activities of the board, or no member of the board is available or present to authorize continuation of the board's operations, including maintaining and safeguarding of records, receipts and disbursements, expenditure of funds, and safeguarding of investments and securities, then in such event the secretary of the board shall have full authority to discharge the duties and responsibilities of such board, as is provided for in this act, and shall be further empowered to bind the board; provided further, that in the event the secretary of the board is incapacitated, then the assistant secretary shall function in his stead and in the manner hereinbefore provided. However, any vacancies on the board shall be filled as soon as possible.

c. Firemen's Pension Fund of the Former Town of Lake. At any time after May 12, 1964, when the board of trustees of the city of Milwaukee firemen's pension fund of the former Town of Lake certifies to the city clerk of Milwaukee that less than 3 active

members remain in such fund, all of the duties and responsibilities devolving upon the board of trustees of the city of Milwaukee firemen's pension fund of the former Town of Lake shall be transferred to and assumed by the annuity and pension board of the employees' retirement system. In the event that such transfer occurs as herein provided for all funds of the city of Milwaukee firemen pension fund of the former Town of Lake shall at the effective date of transfer be turned over to the annuity and pension board of the employees' retirement system. Such funds so transferred shall be maintained separately and apart from any other funds under the direction, supervision and control of the annuity and pension board of the employees' retirement system and shall be used solely for the purposes of administering the city of Milwaukee firemen's pension fund of the former Town of Lake as provided for by law. Payments out of such fund shall be made upon direction of the annuity and pension board of the employees' retirement system. All receipts of such fund shall be under the supervision, direction and control of the annuity and pension board of the employees' retirement system, it being the intent of this subsection that whatever duties and responsibilities relating to the administration of the fund of the city of Milwaukee firemen's pension fund of the former Town of Lake are to be assumed and performed by the annuity and pension board of the employees' retirement system from and after the transfer of such fund.

d. The annuity and pension board is authorized to perform administrative work necessary to implement the provisions of s. 34-06, provided it is compensated by the city for the actual cost of the work performed. (*Par. d cr. File #041513, March 16, 2005; eff. May 31, 2005.*)

e. Policemen's Annuity and Benefit Fund.

e-1. The annuity and pension board is authorized to exercise all powers and duties vested in the policemen's annuity and benefit fund board of trustees by ch. 35.

e-2. The annuity and pension board is authorized to invest the assets of the policemen's annuity and benefit fund provided it accounts for the assets separately from the assets of the combined fund.

e-3. All cost and expenses incurred by the annuity and pension board to manage, administer, or operate the policemen's annuity

### 36-15-2 Employees' Retirement System

and benefit fund shall be paid by the city of Milwaukee.

e-4. The city of Milwaukee shall indemnify and hold harmless the board members, officers, directors and employees of the annuity and pension board and the employees' retirement system from any liability, damages, or injury arising out of the management, administration, investment or operation of the policemen's annuity and benefit fund.

e-5. The annuity and pension board annually shall obtain a report from the policemen's annuity and benefit fund's actuary on the funded status of the fund. If the fund achieves an actuarially funded status of 105%, then any funds in excess of those required to maintain the 105% actuarially funded status shall be paid to the remaining beneficiaries in equal amounts, as determined by the policemen's annuity and benefit fund's actuary, in the form of increased annuity payments.

e-6. The annuity and pension board annually shall conduct a meeting, or direct its staff to conduct a meeting, to report on the status of the fund and answer any inquiries of retirees or widows. The annuity and pension board shall give all retirees and widows at least 30 days notice of the time and location of the meeting. (*Par. e cr. File #050744, Oct. 18, 2005; eff. Jan. 3, 2006.*)

**2. MEMBERSHIP.** The membership of the board shall consist of the following:

a-1. Three members to be appointed by the president of the common council subject to the confirmation of such common council for a term of 4 years.

a-2. Commencing in 1997, when terms expire for members appointed by the common council president, members shall be appointed for terms expiring the 3rd Tuesday of April 2000. Thereafter the common council president shall appoint members for a term of 2 years within 60 days of the commencement of a new common council term, and then within 60 days following 2 years of the commencement of a common council term. If a vacancy occurs in a board position, the president shall appoint within 60 days after the vacancy occurs.

b. The city comptroller ex-officio.

c. Three employee members who shall be members of the retirement system and who shall be elected by the members of the retirement system for a term of 4 years

according to such rules and regulations as the board shall adopt to govern such election.

d. One member to be elected by the vote of persons who had been members but who have retired from the retirement system and receive a retirement allowance, to serve for a term of 4 years. The election of such person shall be conducted in the same manner as is the election of an employee member under par. c except, however, that only retirees as herein described shall be allowed to vote in such election. Nothing herein contained shall preclude any member elected to the board from succeeding himself or herself. (*Sub. 2 am. Ch. Ord. 486, File #79-869-a, Mar. 13, 1980. Sub. 2-a ra. to 2-a-1 File #960237, June 4, 1996; eff. Aug. 20, 1996. Sub. 2-a-2 cr. File #960237, June 4, 1996; eff. Aug. 20, 1996. Sub. 2-c am. File #960237, June 4, 1996; eff. Aug. 20, 1996. Sub. 2-d am. File #960237, June 4, 1996; eff. Aug. 20, 1996.*)

**3. VACANCY.** If a vacancy occurs in the office of a board member, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

**4. OATH OF OFFICE.** Each member of the board shall, within 10 days after his appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the board and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system.

**5. DECISION VOTE.** Each member of the board shall be entitled to one vote in the board. A majority of members present shall be necessary for a decision by the members of the board at any meeting of the board. (*Sub. 5, am. Ch. Ord. 544, File #84-1168, Dec. 11, 1984.*)

**6. RULES AND REGULATIONS.** Subject to the limitations of this act and with the advice of the city attorney the board shall, from time to time, establish rules and regulations for the administration of the funds created by this act, for the transaction of its business and in order to carry out the provisions of this act. All rules and regulations promulgated by the board shall be filed with the city clerk within 30 days after they have been approved by the board and revocation of such rules or amendments thereto shall be filed in the same manner.

**7. OFFICERS AND EMPLOYEES; EXPENSES.** The board shall elect from its membership a chairman and vice chairman and shall by a majority vote of all its members appoint a secretary, who may be, but need not be, one of its members. It shall appoint an executive director and shall engage such actuarial and other service as shall be required to transact the business of the retirement system. The compensation of all persons engaged by the board and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board shall approve. *(Sub. 7 rn. to 7-0, File #950077, July 14, 1995; eff. Sept. 27, 1995.)*

a. It shall be the duty of the secretary and executive director of the retirement system to maintain records respecting the amount of system funds invested in common stocks and preferred stocks and such secretary and executive director shall function under direction of the annuity and pension board and shall be appointed by such board under civil service procedure with civil service status; the incumbent secretary and executive director shall have civil service status with the enactment of this section. In the event of a vacancy in the office of secretary and executive director, such office shall be filled by the board under civil service procedures and thereafter such secretary and executive director shall have civil service status, subject to the rules and regulations thereof. *(Par. a cr. File #950077, July 14, 1995; eff. Sept. 27, 1995.)*

b. The assistant secretary and executive director shall fulfill the duties of the secretary and executive director in his or her absence for any reason, and in the event a vacancy shall occur in the office of assistant secretary and executive director the position shall be filled by the board under civil service procedures, and he or she shall have civil service status under the rules and regulations applicable thereto. *(Par. b cr. File #950077, July 14, 1995; eff. Sept. 27, 1995.)*

**8. DATA REQUIRED.** The board shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system, and for checking the experience of the system.

**9. RECORDS.** The board shall keep a record of all its proceedings which shall be open to public inspection. It shall publish

annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the assets of the system and the financial condition of the system as disclosed by an actuarial valuation of the retirement system. The board shall by resolution determine which of its records are obsolete or no longer required and direct the secretary of such board to destroy those records; provided, however, that no records shall be destroyed unless the secretary shall certify that it is no longer required in the conduct of the board's business or essential to the safeguarding of records with respect to members' or retired members' rights or benefits, and provided further that in no event shall any record be destroyed until it has been in existence for more than 7 years.

**10. LEGAL ADVISOR.** The city attorney shall be the legal advisor of the board.

**11. CUSTODIAN OF FUNDS.** The city treasurer shall be the custodian of the several funds of the retirement system and shall give up such bond for the proper performance of his duties as is required by the board. All payments from said funds shall be made by him only upon vouchers signed by 2 persons designated by the board. A duly attested copy of a resolution of the board designating such persons and bearing on its face specimen signatures of such person shall be filed with the treasurer as his authority for making payments upon such vouchers. No payment shall be made unless it has been authorized by the board. Nothing contained herein shall preclude the board from providing for custody by an appropriate entity of its funds and securities in the manner in which it deems prudent.

*(Sub. 11 am. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.)*

**12. MEDICAL COUNCIL.** The board shall designate a medical council to be composed of 3 physicians. If required, other physicians may be employed to report on special cases. The medical council shall arrange for and pass upon all medical examinations required by the retirement system, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the board its conclusion and recommendations upon all the matters referred to it. Nothing contained in this subsection shall

### 36-15-13 Employees' Retirement System

prevent the making of a certification by the medical panel of physicians of either the fire department or police department with respect to the operation of s. 36-05-3-c.

**13. ACTUARY.** The board shall designate an actuary who shall be the technical advisor of the board on matters regarding the operation of the funds created by the provisions of this act, and shall perform such other duties as are required in connection therewith.

**14. PERIODIC VALUATIONS; TABLES AND RATES THEREON.** At least once in each 5-year period the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the retirement system, and shall make a valuation of the assets and liabilities of the funds of the system, and taking into account the results of such investigation and valuation, the board shall adopt for the retirement system such mortality, service and other tables as shall be deemed necessary. (*Sub. 14 rc. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

**15. ANNUAL VALUATIONS.** On the basis of such tables as the board shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the retirement system.

**16. EXECUTION OF DOCUMENTS.** Whenever any document, record or paper requires the signatures of either the chairman of the board or the secretary or both, or the vice chairman in the absence of the chairman, such officers may execute the aforesaid documents on behalf of the board and the employees' retirement system by identifying themselves in the case of the chairman or vice chairman of the board as president or vice president of the employees' retirement system and in the instance of the secretary of the board as secretary of the employees' retirement system, and the executions made with that identification shall in all respects be deemed the execution for and on behalf of the board and of the employees' retirement system.

**17. CONTRACT FOR FUND ADMINISTRATION.** The board is authorized notwithstanding any other provision to the contrary, to enter into contracts with established trust companies who have been engaged in such trust business extensively for at least 25 years continuously or other similar established companies able to demonstrate

sufficient fiscal experience and expertise and administrative capacity to undertake operations, investments and custody of pension and retirement funds and to exercise a trustee relationship over the fund so as to accept total responsibility, obligation, administration, investment and custodial services and serve as trustee of this fund. When such services are contracted for as provided for herein, members of the board shall be thereupon released from their obligations or liability under this act with respect to all functions, duties, responsibilities and obligations which are undertaken by contract by such trust entity. The provisions of this subsection are vested and contractual as to members and beneficiaries of this fund. Contracts entered into pursuant to this subsection shall neither be impaired, abrogated or suspended during their duration by any collateral, indirect or direct procedures or actions and the rights herein provided for which are designated to protect the members and the beneficiaries of the fund and the integrity of such fund are in all respects vested, contractual and binding and shall not be altered, modified or impaired by subsequent action. (*Sub. 17 cr. Ch. Ord. 375, File #71-1754, Dec. 7, 1971.*)

**18. REVIEW.** Any person, aggrieved within the meaning of ch. 68, Wis. Stats., by a determination of the board reviewable under ch. 68, Wis. Stats., may have such determination reviewed in accordance with the procedures established under ss. 68.08 to 68.13, Wis. Stats. (*Sub. 18 cr. Ch. Ord. 478, File #78-2302, Oct. 23, 1979.*)

**[Pages 361 to 446 are blank]**